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A Report to the Governor
and the
56th Legislature
of the
Joint Oversight Committee on Children and Families

November 1998

Prepared by
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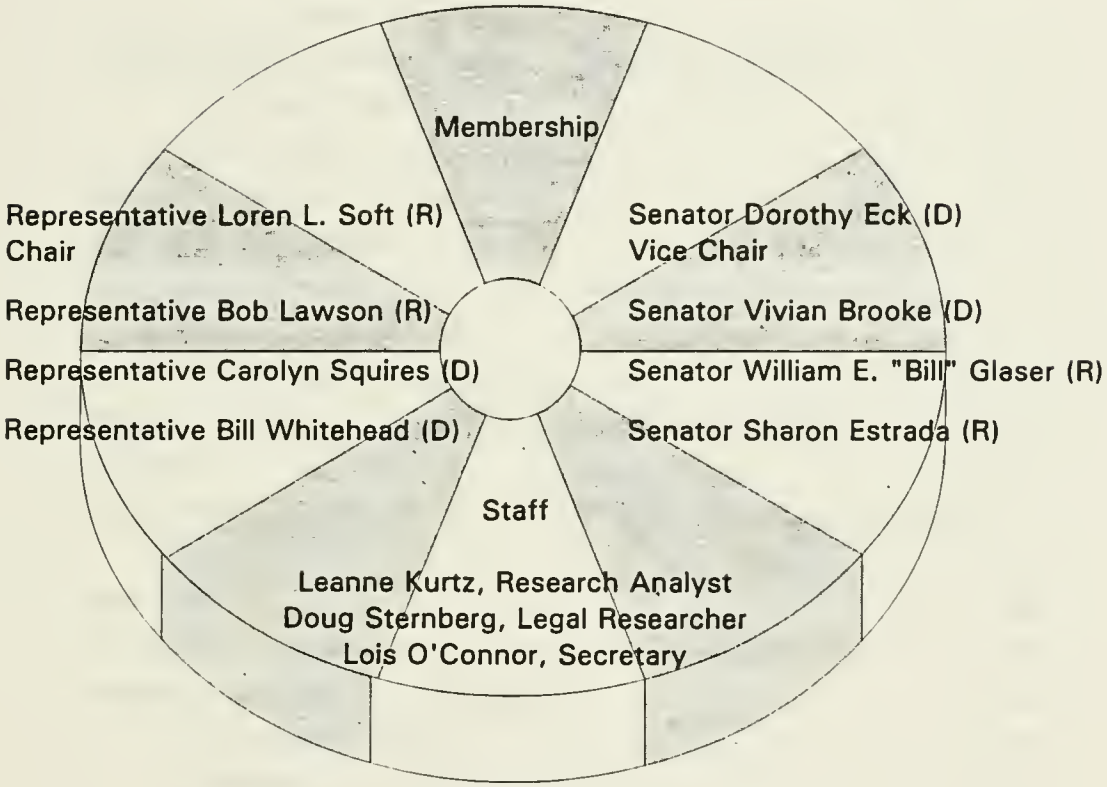
CHANCE AND CHOICE IN THE GAME OF LIFE: A LEGISLATOR'S HANDBOOK

Final Report

Joint Oversight Committee on Children and Families

November 1998



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PART I: INTRODUCTION

In 1960, Milton Bradley Company introduced a board game called "The Game of Life". In playing the Game, you begin life fresh out of high school, represented by a little blue or pink peg, $2,000, and a car. The object of the Game is to get married (everyone in life adds a peg to the car at the designated space on the board); navigate the pitfalls in life, such as a gambling loss or an auto accident; manage your money; have children (contrary to real life, they pay off later); successfully play the stock market; and retire to Millionaire Acres with more money than anybody else. If you mismanage your money, lose in the stock market, have no children, or simply meet with misfortune as you guide your plastic car through the twists and turns on the road of life, the bank takes all your money and you go to the Poor Farm to sit out the rest of the Game. Some skill and decisionmaking is involved in the Game, while hundreds of thousands of dollars are won and lost at the random whim of a spin on the Wheel of Fate. The contrasts between the Game and modern real life are obvious, but remarkably, the creators did manage to capture the essence of real life. "Fate plays a large part, but your decisions are also very important," the directions to the Game read. "For example, at the first fork in the road, you must decide whether to go into business or take the longer way through college with a chance for a larger salary. You will come to other forks in the road. In each instance, the longer way offers greater rewards, but also greater penalties. The choice is yours!"

Fate takes many forms. In the Game, it is a multicolored plastic wheel that emits a satisfying buzz when spun with vigor. For some, fate is not random at all, but a preordained path that has been chosen by God. For those at the other end of the spectrum, the universe is a chaotic stew of atoms, protons, neutrons, and molecules, and fate is strictly an arbitrary collection of events that tosses them about like Gilligan's tiny ship, the Minnow, in rough seas. Still others fall somewhere in the middle, recognizing that life throws curve balls that nobody could have predicted and people are unwittingly and unceremoniously dropped into difficult circumstances that require exceptional personal strength, will, and perseverance to overcome.

Within the concept of fate lie virtually imperceptible shades of grey allowing it to mean different things to different people. Fate, or "chance" as it is used in the pages that follow, is wide open to interpretation depending on personal beliefs and philosophies. "Choice", however, does not so easily lend itself to interpretation. A child born to a mother who has left an abusive marriage and is struggling to make ends meet had no more personal choice about his circumstance than a child born to Donald Trump or Bill Gates.

Everyone grapples with the mysterious combination of chance and choice in life, and each person's individual mix affects not just that person, but that person's family, community, state, and country. It ultimately falls upon the state, federal, and local governments (as well as local communities) to devise strategies, whether or not those strategies involve direct government services, to mitigate unfortunate circumstances and and poor choices for the benefit of the individual and the greater community.

Representing the Legislative Branch of Montana state government since its inception in 1991, it has been the duty and challenge of the Joint Oversight Committee on Children and Families (JOCCF or Committee) to review these mitigation strategies, offer suggestions and a legislative perspective, and educate members' legislative colleagues in the basics of real life that Montanans play. The JOCCF spent hours of interim meeting time studying the myriad ways that the Game is played and how the public and private sectors are endeavoring to help citizens make healthy choices, recover from the detrimental spins on the Wheel of Fate, and stay out of the Poor Farm for the rest of the Game.

What follows is intended to serve as a legislator's book of directions on how Montanans play the real-life Game of Life. The contents are based on information presented to the JOCCF from August 25, 1997, through August 17, 1998. Legislators with limited public health policy experience should find the directions particularly helpful as human service-related issues arise during the 1999 session.

The members and staff of the JOCCF hope that this handbook becomes a valuable, dog-eared reference guide during the hectic months of the 56th legislative session.

PART II: JOCCF MISSION STATEMENT

To form a backdrop for its discussions during the interim process, the JOCCF unanimously adopted a mission statement on September 26, 1997. The mission statement reads:

> *The Joint Oversight Committee on Children and Families (JOCCF) pledges to conduct its 1997-98 Interim business in the spirit and to the letter of the Montana Family Policy Act found in Title 41, chapter 7, MCA.* [See Appendix A.]
>
> *It is the policy of the JOCCF to support and preserve the family as the single most powerful influence for ensuring the healthy social development and mental and physical well-being of Montana's children.*
>
> *Through its oversight activities, studies, and requests for legislation, the JOCCF pledges to support and help to improve programs that are proven to:*
>
> - *sustain a healthy family structure;*
> - *assist at-risk families in crisis intervention; and*
> - *protect children in crisis.*
>
> *Consistent with the Montana Family Policy Act, the JOCCF recognizes that services to children and families are most effective at the community level and will encourage community-based programs.*
>
> *The JOCCF strongly encourages collaboration in any way possible among governmental, tribal, and private agencies, organizations, and private individuals providing services to children and families.*

PART III: THE GAME PLAN

At its first meeting of the interim in August 1997, the JOCCF agreed to approach its wide-ranging statutory duties (see Appendix B) in two ways. First, the Committee established areas in which members considered oversight and monitoring to be appropriate. In these areas, the Committee heard updates at regular intervals and, with a couple exceptions,[1] did not take an active role, recognizing those issues to be priorities with other groups. For the second component of their interim work, Committee members directly involved the 192 individuals and organizations on their mailing list. Staff prepared a questionnaire ("Wish List", Appendix C) that prompted the recipient to tell the JOCCF what problems the recipient's organization was attempting to solve and what products were desired from the JOCCF's interim work. Using the completed surveys, Committee member experience, and information from the Department of Public Health and Human Services (DPHHS), the JOCCF then created a chart (attached to back cover) to list its goals and map its progress throughout the interim. During the 55th legislative session, a performance evaluation requirement was added to the JOCCF's responsibilities as listed in 5-22-102, MCA. The JOCCF used the chart not only to stay on course, but also as a means of evaluating its overall performance at the interim's conclusion.

The JOCCF took the self-evaluation requirement a step further toward the end of the interim by sending surveys to interested persons, asking them to evaluate the Committee's performance. The responses were overwhelmingly positive (Appendix D), and Committee members appreciated the thoughtful comments and suggestions. Unfortunately, however, only a tiny fraction of the surveys sent were returned, making a credible analysis impossible.

---

[1] The Committee originally determined to merely monitor the development of the Children's Health Insurance Program, with two members participating in the advisory council and providing updates to the rest of the Committee. As the interim progressed, the JOCCF decided to assume a more direct, active role. Child custody and visitation issues also migrated from monitor status with the Committee's decision to request the Uniform Child Custody Jurisdiction and Enforcement Act as a Committee bill.

The members of the JOCCF viewed the interim as an educational experience that could serve to benefit the entire Legislature. Their ultimate goal was not only to produce this reference guide but also to acquire a basic understanding of the issues likely to surface in session committees and floor debate.

The amount and diversity of the material that an effective legislator must master is staggering. Legislators must often make important decisions based on second- and third-hand information from trusted (and not so trusted) sources. With the 1997-98 interim behind them, the members of the JOCCF represent a body educated in many of the complicated details of human service policy. With few exceptions, decisions made by the Committee were unanimous. The bipartisan group considered it important to send united messages that legislators from both parties could consider credible, sincere efforts to improve the well-being of Montana's children and families while perpetuating a responsible, responsive, financially sound state government.

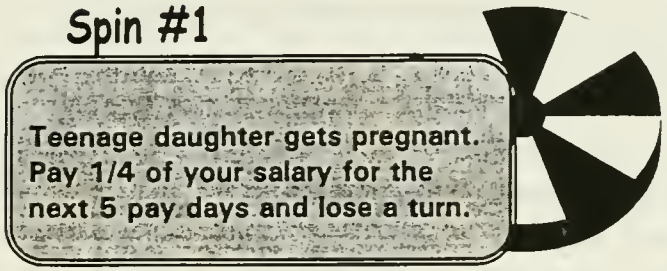
Pick out a plastic car in your favorite color, collect $2,000, and get ready to play!

Disclaimer: The "spaces" on the board are intended to identify the subject only. The amounts of time and money specified in those spaces are arbitrary and should not be interpreted to reflect actual costs and time.

PART IV: THE WHEEL OF FATE

It's Your Turn!

Spin #1



RATIONALE

The JOCCF is required each interim to "study the issues surrounding teenage parents and their families, including problems related to employment, education, parenting skills, and public assistance" (5-22-102(4), MCA), as well as "monitor implementation of state and national welfare reforms related to at-risk families, child care, teenage parents, and other human service concerns" (5-22-102(5), MCA). On November 14, 1997, the JOCCF received a primer on unintended pregnancy among teens in Montana and the efforts underway at the state and local levels to address prevention and to temper the ill effects of unintended teen pregnancy on the teen's family and community. At successive meetings, staff from the DPHHS's Family Planning Section discussed with the Committee their plans for establishing an abstinence-only education program using federal grant dollars. Senator Brooke also presented the Committee with information on the safer sex education strategy.

QUICK FACTS [2]

The Problem

- ❑ 62% of Montana teens reported being sexually active in 1995.
- ❑ In 1995, there were 1,963 teen pregnancies reported in Montana.

---

[2] Unless otherwise noted, the "Quick Facts" on teenage pregnancy were provided to the Committee November 14, 1997, by the Family Planning Section of the Health Policy Services Division, Montana DPHHS.

- Eight to 12 years after birth, a child born to an unmarried, teenage, high school dropout is 10 times as likely to be living in poverty as a child born to a mother with none of those characteristics.[3]

- From 1981 to 1995, pregnancy rates for Montana teens 18 to 19 years old declined 24% and declined 8% for teens 15 to 17 years old.

- At least 1 in 16 Montana teens between the ages of 15 and 19 became pregnant in 1995.

- Substance abuse, poverty, education, family composition, and history of sexual abuse are factors that have been identified as having an impact on teen pregnancy rates.

- From 1991 to 1995, one out of five teen births was to a Native American mother.

- Roosevelt County has the highest percentage rate of teen pregnancy; Sheridan County has the lowest percentage rate.

Working Toward Solutions: "Safer Sex" and "Abstinence-Only" Education

- "Safer sex" and "abstinence-only" are two teen pregnancy prevention education options. Although debate continues over the most effective strategy, there appears to be agreement across the political spectrum that education is the key to stemming the incidence of unplanned teenage pregnancy. (See also the Healthy Mothers, Healthy Babies Dad's Project.)

Safer Sex[4]

- In May 1998, the Journal of the American Medical Association (JAMA) published the results of a study showing that both safer sex

---

3 "1998 Kids Count Data Book; State Profiles of Child Well-Being"; the Annie E. Casey Foundation.

4 Senator Brooke provided the Committee with the JAMA study information at its June 22, 1998, meeting. (See Exhibit #21, the JOCCF Minutes; June 22, 1998.)

and abstinence education can reduce behaviors that lead to unplanned pregnancy and sexually transmitted diseases; however, the report concludes, "safer sex interventions may be especially effective with sexually experienced adolescents and may have longer-lasting effects".[5]

- The JAMA study was designed to show the relative effectiveness of safer sex and abstinence education on a group of teens' self-reported rates of sexual activity and condom use. Teens were divided into three groups for the study, with each group emphasizing one of three interventions--abstinence education, safer sex, and a control group. The control group received information on general health promotion.

- Three months into the study, 13% of teens in the abstinence group reported having had sexual intercourse, compared with 17% in the safer sex group and 22% in the control group. Thirty-eight percent of the participants in the abstinence group reported consistent condom use, compared with 66% in the safer sex group and 36% in the control group.

- Twelve months into the study, 20% of the participants in the abstinence group reported having had sexual intercourse, compared to 17% in the safer sex group and 23% in the control group. Forty-one percent of the participants in the abstinence group reported consistent condom use, compared to 63% in the safer sex group and 51% in the control group.

Abstinence-Only

- In December 1997, the DPHHS received a $186,439 federal grant to establish an abstinence-only education program.

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5 Journal of the American Medical Association. Abstracts, May 20, 1998. Internet reference: http://www.ama-assn.org/sci-pubs/j...ve/jama/vol_279/no_19/oc80091a.htm.

- Congress was specific in authorizing the funding for this grant program that the funds may be used for abstinence-only education, not for family planning or birth control.

- The DPHHS has established an advisory council to assist in developing the curriculum and training manual for its community-based program entitled "Assets for Abstinence".

- The DPHHS defines "Assets for Abstinence" as a "comprehensive, structured program that gives youth the tools to postpone sexual activity and helps parents educate, inform, and teach family values to their children". The DPHHS further describes the "centerpiece" of its planned approach as a "peer education program and a train-the-trainers component that will utilize accessible, qualified resource people in participating communities".[6]

- Special emphasis will be placed on involving teenage males in the Assets for Abstinence program.

ACTION/RECOMMENDATION: The Committee took no formal action.

Representative Soft serves on the Assets for Abstinence advisory council, along with Senator Bea McCarthy. Members expressed a range of opinions regarding the most effective education strategy.

---

6 "Assets for Abstinence" program abstract, developed by the Montana DPHHS's Family Planning Section and submitted to the JOCCF on April 17, 1998.

It's Your Turn! Spin #2

Read the *Kids Count Data Book* to understand the trends in your community. Lose a turn, but move forward an additional three spaces at next turn.

RATIONALE

Healthy Mothers, Healthy Babies, The Montana Coalition (HMHB), approached the JOCCF early in the interim to explain the purpose and uses of the *Kids Count Data Book* and to elicit Committee support. HMHB has appeared before the Committee several times in recent years and has received state dollars to augment its funding from the Annie E. Casey Foundation, Baby Your Baby community sponsors, the Henry J. Kaiser Family Foundation, the U.S. West Foundation, and the W.K. Kellog Foundation.

QUICK FACTS

- The Annie E. Casey Foundation publishes an annual *Kids Count Data Book* that provides state-by-state information on 10 key indicators of child well-being. The indicators are percent low birth weight babies; infant mortality rate; child death rate; rate of teen deaths by accident, homicide, and suicide; teen birth rate; juvenile violent crime arrest rate; percent of teens who are high school dropouts; percent of teens not attending school and not working; percent of children in poverty; and percent of families with children headed by a single parent.

- Montana's Kids Count Project is just one of the activities undertaken by HMHB, The Montana Coalition, described in promotional literature as a "statewide coalition of concerned citizens, community organizations, health educators, health professionals, and public policy makers working together to improve the health of mothers and children in Montana".[7]

---

7 HMHB mission statement as provided to the JOCCF on November 13, 1997.

- Montana's Kids Count Project involves gathering and publishing the trends in the health and well-being of Montana's children on a county-by-county basis. Montana's *Kids Count Data Book* provides county profiles containing current information and change data on rates of children with mental illness; home school, private school, and public school enrollments and student-teacher ratios; out-of-home placements; substantiated child abuse and neglect cases; unemployment rates; percent of children in poverty; low birth weight babies; infant mortality; Medicaid cost of pregnancy services; child death rates; teen violent death rates; births to teens; alcohol and drug treatment admissions; and juvenile crime.

- Montana's *Kids Count Data Book* is made available to policymakers, community organizations, and the general public.

- HMHB reports that the users of the *Kids Count Data Book* include libraries, schools, the Legislature, state agencies, universities, community groups, local governments, private foundations, and tribal organizations.

- Active users of the *Kids Count Data Book* state that the information has proved useful in community strategic planning, grant writing, public education, and program development. The book also allows users to focus on specific areas of need as those are indicated in the data.

- HMHB's annual budget for the Kids Count Project is $150,000. HMHB plans to request $50,000 in state dollars, specifically from the DPHHS, the Board of Crime Control, and the Office of Public Instruction. The remaining $100,000 will be generated through fundraising, book proceeds, and grants.

- In addition to the annual *Kids Count Data Book*, HMHB publishes two special reports each year that focus on specific areas of concern, such as teen pregnancy and infant health. Kids Count Project resources are also directed toward conducting community forums and public

education events, producing educational videos, and making the data available in an electronic format.

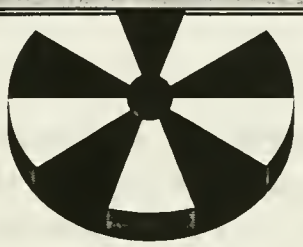
ACTION/RECOMMENDATION: The JOCCF voted to support the concept of the Kids Count Project and encourage alternative means of information dissemination.

At the HMHB's initial appearance before the Committee on November 13, 1997, the organization requested the JOCCF to support continued state government participation in publishing the Kids Count Data Book. Committee members requested additional information about who uses the book and how it is used. At the Committee's January 8, 1998, meeting, HMHB provided details on how Kids Count information is used in Billings, Great Falls, and Glendive, including comments from officials in those communities for whom Kids Count is a primary information source.

Recognizing the significance of the information as a primary source of trend data, the JOCCF voted to express its support for the Kids Count concept. The Committee directed staff to compose two letters encouraging continued publication of the book--one that HMHB could use in its fundraising efforts (Appendix E) and the other to the HMHB Board of Directors (Appendix F) urging the organization to explore the feasibility of making Kids Count data available on the Internet. Citing uncertainty about the state's overall budget picture, Committee members stopped short of formally endorsing any state funding for the project.

It's Your Turn! Spin #3

Congratulations! You just became a dad! Pay 1/4 of your salary each pay day. If you choose to participate in the Healthy Mothers, Healthy Babies Dad's Project, advance three spaces on your next turn.



RATIONALE

HMHB asked that the JOCCF be aware of its new program aimed at promoting responsible fatherhood. HMHB presented the JOCCF with information on the Dad's Project at the Committee's November 13, 1997, meeting.

QUICK FACTS[8]

- HMHB's Dad's Project was conceived to enhance the role that fathers play in ensuring that every child in Montana has the "opportunity to be raised in a healthy emotional, physical, and spiritual environment".

- The three primary goals of HMHB's Dad's Project are: "1) to create a community environment where families can acknowledge paternity and assume parenting responsibility; 2) to prevent situations where children are without fathers by preventing teen pregnancy through primary prevention . . ." which involves the postponement of early sexual intercourse; and "3) . . . to have a father actively involved in raising each Montana child through interaction and financial support, including child support".

- Project objectives include helping young parents understand the importance of establishing legal paternity, whether or not marriage is planned.

---

8 Information provided to the JOCCF on November 13, 1997, by HMHB.

- In the first phase of the Dad's Project, 10 Montana communities will receive funding for program development. Each funded community will be required to assist at least one other community in developing a Dad's Project plan, resulting in a minimum of 30 committed communities by the end of the 6-year project.

- HMHB will appoint an advisory committee to guide the project.

- Strategies include: initiation of a media campaign to increase public understanding of child support issues, to promote responsible fatherhood, and to convey teen pregnancy prevention messages; staffing of a 1-800 information line; development of a "paternity packet" and video to educate young men on responsible fatherhood; and development of a plan to promote changes in policy that facilitate a father's involvement in his children's lives.

- If funded, the Dad's Project staff will produce a Kids Count special report on fatherhood that includes information on marriage and earnings, children in mother-only families, and marriage and education and other material showing the effects of fathers not participating in the lives of their kids.

- The effectiveness of the Dad's Project will be determined by documenting the percentage of mother-only families receiving child support, the number of births to unmarried teens ages 15 to 19, the percentage of children living in households with no adult male present, the percentage of men ages 25 to 34 who earn less than the federal poverty level for a family of four, and the numbers of fathers not paying child support.

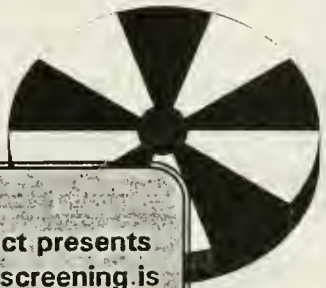
- HMHB assured the Committee that it is aware of the various efforts around the state to prevent unintended teen pregnancy, and it does not intend to duplicate the work of others. The Dad's Project will focus on being a resource for families with questions concerning paternity and fatherhood, as well as an information clearinghouse in

determining the impacts that absent fathers have on families and society.

- ❑ HMHB is exploring grant funding for the Dad's Project.

ACTION/RECOMMENDATION: The Committee took no formal action on the Dad's Project.

It's Your Turn! Spin #4



Add a baby daughter! Collect presents from each player. Hearing screening is not offered at your hospital. Lose two turns to travel to another facility.

RATIONALE

Dr. Michael Spence, State Medical Officer, DPHHS, requested that the Committee be informed about the importance of early detection of hearing impairment in babies and his efforts to make universal hearing screening for newborns available throughout Montana. Dr. Spence said that he did not anticipate a need for legislation or legislative funding.

QUICK FACTS[9]

- One out of every 1,000 babies born in the United States is totally deaf; 6 out of every 1,000 babies born have profound hearing loss; and 20 out of every 1,000 babies born suffer significant hearing impairment.

- In Montana, approximately 250 babies are born each year with significant hearing impairment.

- Early detection and treatment are the keys to providing a higher quality of life for hearing-impaired children and financial savings for the state in speech pathology and hearing loss services. Data from the Office of Public Instruction indicates that the state spends $18,000 a year more to educate a hearing-impaired child whose disability was not detected early than the amount that is spent on educating a child with normal hearing.

---

9 Dr. Spence provided the information to the Committee on November 14, 1997.

- A child with normal hearing has a vocabulary of about 700 words by 3 years of age, compared to 400 words for a hearing-impaired child whose disability is identified at birth. If a child's hearing impairment is not discovered within the first year of the child's life, the child will be limited to a 50-word vocabulary at 3 years of age.

- Dr. Spence's goal is to make hearing screening for newborns a standard practice in Montana, recognizing that the rural nature of the state and funding limitations preclude instituting hearing screening every place that babies are born.

- Dr. Spence is working with audiologists, the Montana Hospital Association, physicians, tribal health clinics, and the public health nursing system to establish hearing screening on a regional basis.

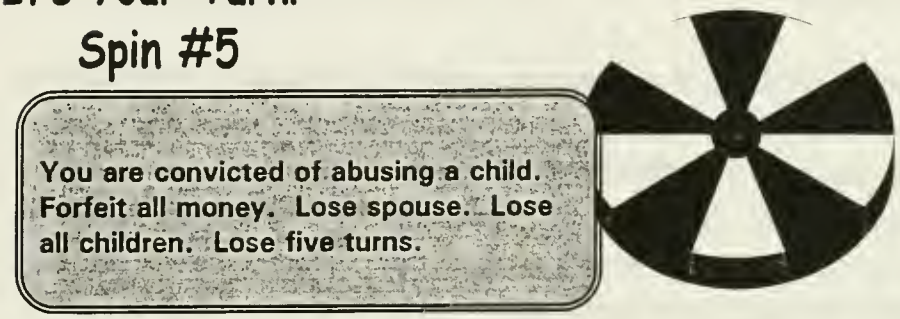
- Cost of the technology and the instruments ranges from $6,000 to $20,000.

- Medicaid and third-party payers cover the cost of hearing screening for newborns, and the procedure is bundled into the other services for children born in hospitals that have the technology.

- Dr. Spence plans to pursue grant funding to move the project forward.

ACTION/RECOMMENDATION: The JOCCF took no formal action in response to Dr. Spence's presentation, but encouraged him to continue his efforts.

It's Your Turn!
Spin #5



RATIONALE

The Montana Council for Families (Council) responded to the JOCCF's early interim survey (see Appendix C) with a request that the Committee members understand the nature and the scope of child abuse and neglect in Montana and lend their support to some specific uses of federal Child Abuse Prevention and Treatment Act (CAPTA) block grant dollars.

QUICK FACTS[10]

- Child protective agencies in 49 states reported that over 1 million children were victims of substantiated or indicated child abuse and neglect in 1995. Agencies in 45 states reported that 996 children were known to have died as a result of abuse or neglect in 1995.[11]

- The Council is a "statewide organization formed in 1990 when the Montana chapters of the National Committee to Prevent Child Abuse and Parents Anonymous merged. [The] Montana Council for Families is a 501(c)3, not-for-profit corporation dedicated to preventing child abuse and neglect in all of its forms through community efforts to strengthen and support Montana's families. [The] Montana Council for Families links a network of child abuse prevention councils and

---

10 Unless otherwise indicated, the data on child abuse and the Council was provided by the Council at the JOCCF's November 13, 1997, meeting.

11 U.S. Department of Health and Human Services, "The Scope and Problem of Child Maltreatment"; Internet reference: www.acf.dhhs.gov/programs/cb/ncanprob.htm.

programs in ninety Montana communities and seven Native American reservations."

- In 1996, six Montana kids died as a direct result of abuse or neglect.

- During fiscal year 1994-95, 13,785 children in Montana were involved in child abuse or neglect investigations, 3,548 of which were substantiated. Of the cases substantiated, 341 were sexual abuse cases, 983 were emotional or physical abuse cases, and 2,224 were neglect cases.

- Child abuse and neglect not only damage the families involved but also tear at the state's social fabric and cost the state and local governments money in foster care, health care, special education, incarceration, and court proceedings.

- According to figures released by the Children's Defense Fund in September 1997, children who are abused or neglected are 67 times more likely to be arrested for juvenile crime than those who are not abused or neglected.

- Children who are abused often become parents who abuse.

- The Council has identified two specific child abuse prevention strategies that have proved effective in breaking the cycle of abuse in families. These are crisis care services and parent support groups.

Crisis Care

- Crisis care is defined as short-term child care designed to provide services to fragile families before child abuse, neglect, or removal of the child from the home occurs. Grant funding is used to help communities develop methods to care for kids while their parents are in crisis or attending activities to help stabilize the family.

- Between September 1994 and September 1997, 755 Montana families received crisis care services.

- Crisis care projects currently operate in Lincoln, Flathead, Hill, Valley, Missoula, Deer Lodge, Beaverhead, Gallatin, Yellowstone, and Custer Counties and on the Blackfeet, Flathead, and Northern Cheyenne Indian Reservations.

- To continue operation in the established communities and expand into new communities, the Council has requested that a portion of the CAPTA block grant funds continue to be directed toward crisis care projects.

Parent Support Groups

- Parent support groups, also called Parents Anonymous, are community-based programs in which parents who are having trouble with their kids can vent frustrations and receive advice from their peers, trained volunteers, and professionals.

- The groups are cost-effective because parents in the community lead the sessions and volunteers facilitate and provide child care.

- Parent support groups are effective in preventing child abuse and neglect because parents learn about child development and appropriate parenting skills, while expressing in a safe environment the feelings that often lead to abuse.

- The federal government has identified nine priority areas where states should apply CAPTA funding, one of which involves "developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level".

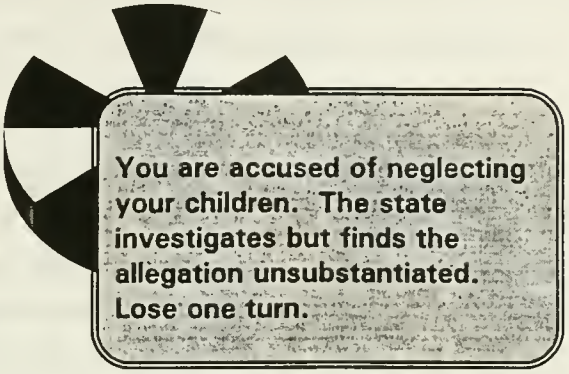
ACTION/RECOMMENDATION: The JOCCF voted to recommend to the DPHHS and its regional advisory councils that federal CAPTA block grant dollars continue to be directed toward maintaining and expanding community crisis care services and parent support groups.

The data presented by the Council, the JOCCF's adoption of a mission statement,[12] and the Committee's pledge to adhere to the Family Policy Act (see Appendix A) all contributed to the unanimous vote to endorse continued funding of the prevention programs discussed above.

The Committee directed staff to develop two separate letters (Appendices G and H) submitting the JOCCF's recommendation to the DPHHS's regional advisory councils, DPHHS Director Laurie Ekanger, and the respective chairs of the Senate Finance and Claims and House Appropriations Committees.

12 The JOCCF's mission statement is on page 1 of this report.

It's Your Turn! Spin #6


You are accused of neglecting your children. The state investigates but finds the allegation unsubstantiated. Lose one turn.

RATIONALE

Committee members' questions about the DPHHS's Child Protective Services (CPS) and reports from members' constituents that state officials had acted inappropriately in certain cases of unsubstantiated abuse led to a lesson in child abuse case management at the JOCCF's June 22 meeting. To walk the Committee through the steps of a child abuse or neglect case, Shirley Tiernan, chief of the Children's Services Bureau, Child and Family Services Division, DPHHS, assembled a group of DPHHS employees, attorneys, judges, and a detective. Each explained his or her role in ensuring the safety of the child and helping the family through the state intervention process.

QUICK FACTS[13]

- ❑ Escalating methamphetamine use is identified as a leading contributor to child abuse and neglect.

- ❑ Approximately 70% of the child abuse and neglect cases in Yellowstone County are drug-related.

- ❑ A social worker in Yellowstone County conducts about 50 investigations a week and handles a caseload averaging 22 families.

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13 Unless otherwise noted, this information was provided by the DPHHS's Children's Services Bureau (CSB) and the professionals assembled at the JOCCF's June 22 meeting, including District Court Judge Jeffery Sherlock; Walt Wagenhalz, Yellowstone County CPS investigator; Sue Anderson, Yellowstone County social work supervisor; Bill Belluski, Great Falls Police Department detective; Carol Clemens, Lewis and Clark County Deputy County Attorney; Shirley Tiernen, CSB chief; and Kathy Ostrander, Southwest regional officer, Child and Family Services Division.

- In June 1997, Great Falls police detectives were investigating 335 child abuse and neglect cases.

- Twenty-five to 35% of child abuse cases that are investigated are substantiated through the investigatory process.

- DPHHS policies and state statutes concerning child abuse intervention are based on retaining the sanctity of the family if at all possible. The DPHHS's Child and Family Services Policy Manual[14] states that "it is the policy of the department to provide protective services to the child in his or her own home when able to do so without risking serious injury to the child". The manual further asserts that "placement of a child out of his or her home should be undertaken only after careful consideration of alternatives and a determination that placement will not create more problems than it solves".

- Seldom had the field workers or judges who appeared before the Committee witnessed unethical or inappropriate behavior on the part of social workers or other state staff involved in a case.

- Presenters to the JOCCF assured members that parents have certain protections against unfair treatment and that there are a number of "checks" and time limits built into the system to prevent unfounded accusations and unnecessary removal of a child from a home. Those protections and their place in the process are described as follows:

  Social Workers

  They are often viewed by parents as adversaries, and while their primary goal is to protect a child whom they consider to be in danger, social workers are trained and mandated to function on behalf of the entire family and make every effort to restore the family that has been impacted by an abuse or

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14 A copy of the policy manual is included with the JOCCF's June 22, 1997, minutes maintained by the Legislative Services Division.

neglect charge. State social workers also undergo child abuse and neglect training and are closely supervised.

Social Work Supervisors

Social work supervisors review the cases and assist social workers in making the tough decisions. This additional layer of review is intended to allay fears of a "renegade" social worker with an axe to grind victimizing a family innocent of abuse or neglect.

Attorneys

If a case cannot be handled informally by the family and the social workers, it enters the court system. If a family cannot afford an attorney, the court will appoint one to represent the parents. The child protective professionals told the JOCCF that the sooner an attorney enters the picture, the better. The attorney helps parents or guardians through the system and educates them on the process. If appointed right away upon the request of the County Attorney, as is done in Lewis and Clark County, there is less chance that family members will become frustrated and stifled by a system that they may not fully understand.

Guardians ad litem

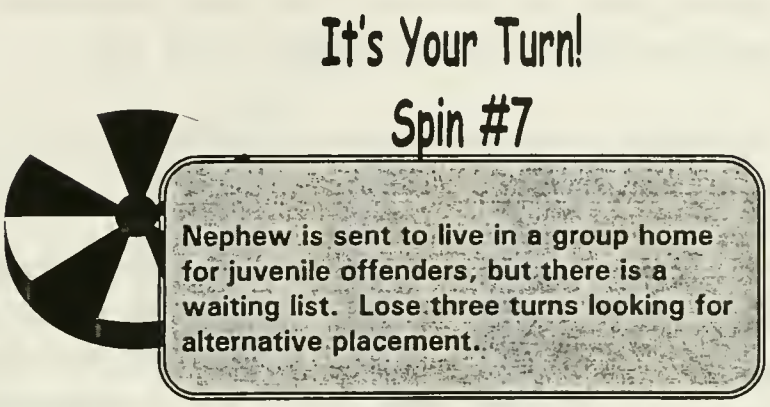
The court usually appoints a guardian ad litem to represent the interests of the child when a case reaches District Court. A guardian ad litem *must* be appointed in an involuntary parent-child legal relationship termination proceeding. The guardian ad litem may be an attorney, but may not be an employee of the DPHHS, nor may the guardian be the County Attorney or Deputy County Attorney. Appointing a guardian ad litem serves to protect a child's interests (and ultimately those of the family if an inaccurate accusation has been made or charge filed) by conducting research into the facts of a case and reporting those facts to the court.

Judges

Only a judge can make the determination to permanently remove a child from his or her home, and even in that instance, the judge has a number of statutory criteria to follow (41-3-609, MCA). If a case has reached this point, the JOCCF was told, it can be assumed that "heroic efforts" have been made to keep the child at home, if at all feasible, by reaching out to parents and assisting them in providing the child with a safe and healthy place to live. In making its determination, however, the court is required to give primary consideration to the physical, mental, and emotional well-being of the child.

ACTION/RECOMMENDATION: The Committee took no formal action as a result of the presentation.

The JOCCF did not consider taking formal action, viewing it as an educational exercise, but members did engage the presenters in discussion on a number of points.


It's Your Turn!
Spin #7
Nephew is sent to live in a group home for juvenile offenders, but there is a waiting list. Lose three turns looking for alternative placement..

RATIONALE

At the JOCCF's August 25, 1997, meeting, the Montana Association of Homes and Services for Children (MAHSC) requested that the Committee review the "rate matrix and reimbursement for the cost of care for providers and what happens to the children who are prematurely released from shelter care centers into the communities".

QUICK FACTS[15]

- According to its mission statement, MAHSC is a "network of providers whose mission is to advocate for the prevention of child abuse; and for the protection, care, treatment and full development of the human potential of all children in Montana who are at risk as a result of neglect, abuse, maltreatment or their own behavior".

- The MAHSC represents 28 agencies that provide specialized care to hundreds of children each year. Specific examples of the services that MAHSC-member agencies offer are foster care, short-term emergency care, group home care, family preservation services, wilderness programs, correctional programs, chemical dependency care, psychiatric hospitals, residential treatment centers, and therapeutic family care.

- MAHSC agencies are public-private partnerships. Sixty-five percent of their funding derives from state and federal agencies, while the

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15 Information derived from MAHSC literature and testimony before the JOCCF at its June 22, 1998, meeting.

remaining 35% must be raised in the agency's community or through private foundations and organizations.

- The amount of reimbursement that a facility receives from the state is based on a rate matrix developed in 1987.

- Since 1987, the costs to MAHSC-member agencies for providing care have risen because of inflation and increased demand, heightened levels of intensive supervision and treatment for more seriously disturbed children, increased cost of workers' compensation and liability insurance, and more state-imposed requirements for facility staff.

- In 1995, the DPHHS and the Department of Corrections placed 1,015 kids in shelter care, 350 kids in group homes, and 473 kids with in-state treatment programs. In total, the state placed 1,838 children with MAHSC agencies.

- In 1997, six group home providers severed their relationship with the state, citing inadequate reimbursement rates as the reason.

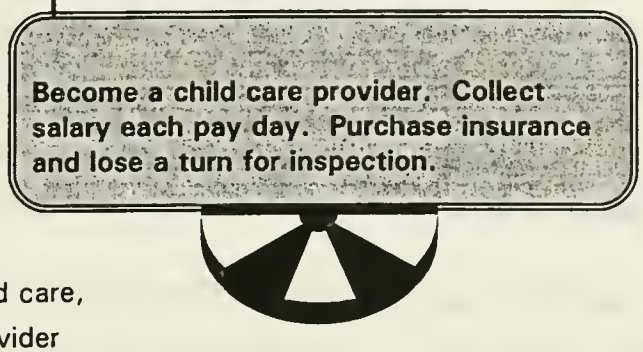
- In 1997, a task force assembled to develop an updated model rate matrix, using current data to accurately reflect the costs of care.

- To implement the new model rate matrix, the DPHHS has included as high priorities the provider rate increases and salary increases for direct care providers in its Executive Planning Process (EPP) proposal submitted to the Governor's Budget Office.

ACTION/RECOMMENDATION: The Committee took no formal action as a result of the discussion, viewing the data provided as background information on a budget item that will surface during the upcoming session.

It's Your Turn!

Spin #8



RATIONALE

During the 1995-96 interim, the Committee undertook an extensive study of child care.[16] The Committee examined employer support for child care, child care quality and provider training, enforcement of child care laws, and child care grant programs. The JOCCF did not want to duplicate any of the work that had been done by the previous Committee, but did receive a request from Child Care Resources to review child care provider licensing and registration policies and procedures. Committee members also recalled that during the 1997 session, intense controversy had surrounded the draft administrative rules governing child care provider licensing and registration. The JOCCF asked the DPHHS for a general child care program update.

QUICK FACTS[17]

- ❑ The DPHHS completed its reorganization of day-care licensing and registration in January 1998, moving the provider licensing and inspection responsibilities to the DPHHS's Quality Assurance Division.

- ❑ Child care is offered in centers, group homes, family homes, or through legally unregistered providers (LUPs). Only day-care centers have to be licensed. Group homes and family homes must be registered. LUPs are child care providers who may care for one or

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16 See "An Ounce of Prevention, A Pound of Cure; Caring for Children, Preventing Teenage and Unintended Pregnancy, and Addressing Other Child and Family Issues", the JOCCF's 1997 report to the Governor and the 55th Legislature, prepared by Sheri S. Heffelfinger, Legislative Research Analyst. The report is available through Montana Legislative Services Division.

17 Unless otherwise indicated, the information included in the "Quick Facts" was provided to the JOCCF by Roy Kemp, Licensure Bureau chief, DPHHS Quality Assurance Division, and Linda Fillinger, DPHHS Child and Family Services Division, at the Committee's April 17, 1998, meeting.

two children under 2 years old. LUPs do not have to be registered under the Montana Child Care Act, but must submit applications, undergo background checks, and comply with the statewide policy and procedure guidelines in order to receive state reimbursement.

- In March 1998, the DPHHS's Day-Care Licensing and Registration Program (Program) was administering 235 licensed day-care centers, 493 registered group homes, and 1,087 registered family homes, for a total of 1,815 providers and 21,393 child care slots.

- The DPHHS had record of 627 LUPs operating in March 1998.

- The Montana Resource and Referral Network (R&R) is made up of 12 nonprofit organizations that work to "promote the availability of quality child care for all Montana families".[18] R&Rs "help child care providers develop and promote their businesses, help communities meet their child care needs, and help parents find child care and access state child care payments".[19]

- R&Rs have assumed responsibility for processing LUPs. This includes entering LUP information into state data systems and sending LUP paperwork to the Department of Justice and the DPHHS's Child and Family Services Division for completion of background checks. R&Rs also serve as the public's single point of entry into the day-care program and handle all of the new provider requests for information.

- Day-care administrative rules are being revised by the DPHHS. Items in the draft rules that caused considerable controversy during the public comment period in 1997 were staff-to-child ratios, sprinkler systems, and third-floor use for facilities. Revised rules are scheduled for public comment in November 1998.

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18 Sheri S. Heffelfinger, "Analysis of Montana's Child Care System", prepared for the Joint Oversight Committee on Children and Families, September 1996.

19 The JOCCF Minutes, April 17, 1998; page 14.

- The DPHHS's Quality Assurance Division reports that extended licensing for health care and residential care facilities has worked well for the DPHHS and the providers. For these facilities, providers are issued 3-year licenses as a reward for high-quality service and consistent compliance with state standards.

- Prompted by requests from Child Care Resources and the DPHHS's Quality Assurance Division, the JOCCF offered to introduce a Committee bill that allows for extended licensing of day-care providers (Appendix I).

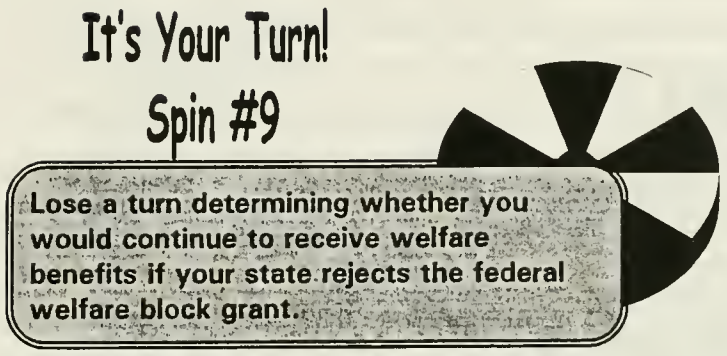
- Under the extended licensing program, all new providers would be limited to a 1-year license until the DPHHS can determine through an established set of criteria that the facility is of the quality and stability deserving of a 3-year license. The DPHHS would retain the right to visit any facility, regardless of the duration of the license.

- In April 1998, there were 300 families waiting for openings with registered child care providers.

- During the JOCCF's April 17 meeting, the Montana R&R network provided the Committee with a number of recommendations to the DPHHS identified by child care advocates. They are as follows:

  Montana must continue to ensure quality and safety for its children in child care; Montana must continue to work on developing a child care system that can meet all of the needs of the families it serves; Montana must continue its efforts to have well-trained child care providers; merit pay incentives must continue to be given to child care providers who receive additional training; consumer education is a must and it must continue; and the child care system must be broader than the current system.

ACTION/RECOMMENDATION: The JOCCF agreed to submit a Committee bill draft request for extended licensing legislation (Appendix I).


It's Your Turn!
Spin #9
Lose a turn determining whether you would continue to receive welfare benefits if your state rejects the federal welfare block grant.

RATIONALE

The final days of the 55th legislative session will be remembered by legislators for the heated controversy spawned by Senate Bill No. 374. The bill (now Chapter 552, Laws of 1997) implemented provisions required by Congress in order for the state to qualify for money to operate welfare and child support enforcement programs. Some legislators believed that the federal requirements were onerous and intrusive, and discussion centered around whether or not the state would submit to the provisions. Noncompliance would result in the federal government penalizing the state by withholding federal welfare dollars. After a dramatic 11th-hour floor debate, the House of Representatives passed Senate Bill No. 374 but attached sunset provisions on the portions of the bill that had caused the strife. In response to the controversy, the Legislative Council established the interim Subcommittee on Welfare and Child Support Enforcement Programs to examine the ramifications if federal dollars for welfare and child support enforcement were rejected by the 1999 Legislature.

ACTION/RECOMMENDATION: The JOCCF sent a letter to the Subcommittee on Welfare and Child Support Enforcement (Appendix J) advocating an extensive study of Montana's welfare system, Families Achieving Independence in Montana (FAIM)--whether it appears to be working, what is happening to families leaving welfare, and where there may be gaps in service.

The Subcommittee considered the JOCCF's proposal but chose instead to strictly limit its interim study to determining precisely what a FAIM program would look like without any federal money. The JOCCF received regular updates on the Subcommittee's progress and

reviewed its final conclusions and recommendations, which are excerpted from the Subcommittee's final report[20] as follows:

> *As a result of its deliberations, the Subcommittee voted to support lifting the termination date on the contested provisions of Senate Bill No. 374 from which the state had not received an exemption.*
>
> *Those contested provisions are: the establishment of a Directory of New Hires; the automated access to financial records; the requirement to provide Social Security numbers on applications for a professional or occupational license, a marriage license, and a commercial driver's license; and the requirement to provide Social Security numbers on a decree of dissolution, a child support order, and a paternity determination.*
>
> *The Subcommittee also decided to present to the 1999 Legislature* [DPHHS's] *options for state-funded welfare and child support enforcement programs but without a recommendation.*

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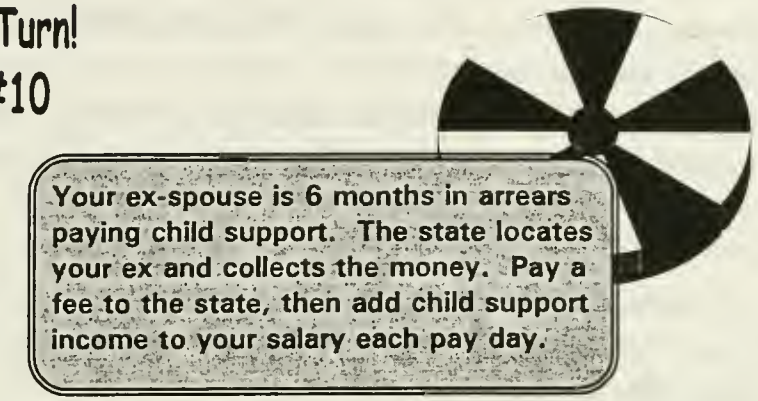
20 For details on the Subcommittee's work, see "In the Absence of Federal Funds: The 1997-98 Activities of the Subcommittee on Welfare and Child Support Enforcement Programs", prepared in October 1998 by Connie Erickson, Legislative Research Analyst, Legislative Services Division.

It's Your Turn! Spin #10


Your ex-spouse is 6 months in arrears paying child support. The state locates your ex and collects the money. Pay a fee to the state, then add child support income to your salary each pay day.

RATIONALE

A new requirement that a fee be charged to a person seeking the collection assistance of the DPHHS's Child Support Enforcement Division (CSED) elicited public protest before the Subcommittee on Welfare and Child Support Enforcement. The Subcommittee referred those testifying to the JOCCF because Subcommittee members wanted to remain focused on determining the effects of withdrawing federal funds from the state's welfare and child support enforcement programs. The JOCCF heard from the CSED as well as dozens of people concerned about the fees.

QUICK FACTS[21]

Child Support Enforcement Division

- The CSED operates with a $12 million annual budget, which includes the operating costs of its automated system, SEARCHS (System for Enforcement and Recovery of Child Support). Thirty-four percent of the total is derived from state special revenue matched by 66% federal funds. The 34% state special revenue is composed of child support collections assigned to the state by families receiving public assistance, plus a federal financial incentive capped by public assistance collections.[22]

- For every child support dollar that the state collects for someone receiving public assistance, the CSED keeps 30 cents and 70 cents is

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21 Unless otherwise indicated, the "Quick Facts" information on the CSED was derived from testimony provided by Mary Ann Wellbank at the JOCCF's June 22, 1998, meeting.

22 Letter to Montana legislators from Mary Ann Wellbank, DPHHS Child Support Enforcement Division administrator, June 12, 1998.

returned to the federal government. This split is based on the Federal Medical Assistance Percentage (FMAP) rate applicable to each state, as defined in section 1905(b) of the Social Security Act. The CSED deposits the 30 cents into the state special revenue account and reinvests it into the program at the 34:66 match rate discussed above.

- As welfare reform results in more families leaving the FAIM program, fewer dollars are available to the CSED, which is predicting an $800,000 to $1.2 million dollar shortfall for fiscal year 1999.

- The Appropriations Subcommittee for Human Services and Aging raised the concept of charging child support collection fees during the 1997 legislative session.

- Through language in House Bill No. 2, the 55th Legislature directed the CSED to charge the fees, stating:

  > *The legislature recognizes that parties who are not required to participate in the IV-D* [child support] *program are choosing to use program services. The legislature intends that these parties help defray the costs associated with provision of services. If the CSED projects that state special revenue may be insufficient to fund appropriations, the CSED shall implement a plan to charge fees and recover costs from parties who receive CSED services.*

- The portion of Montana code that allows the CSED to charge fees (40-5-210, MCA) does not provide for charging fees to obligated parents, and the Code of Federal Regulations (CFR) 302.33 prohibits the CSED from collecting fees from parents owing support until all past due support has been paid.

- On July 1, 1998, the CSED began charging two fees: on a sliding scale, an application fee ranging from $5 to $25 a person who applies for CSED services and is not receiving public assistance; and a $7 (or 10% of the payment, whichever is less) enforcement fee. The

enforcement fee is capped at $364 a year and is based on the actual cost of CSED's enforcement services.

- As of June 22, 1998, the CSED was handling 41,000 child support cases. Five thousand of those individuals were FAIM recipients, over 20,000 had never received public assistance, and the rest of the cases have left FAIM but have assigned past due child support to the state.

- Federal law requires that child support agencies provide collection services to anyone who applies for them, regardless of whether the applicant receives public assistance.

Another Perspective

- At the June 22, 1998, meeting, Montana People's Action presented "The Montana Plan" to the Committee. "The Montana Plan" proposes a guaranteed state-funded minimum child support payment for custodial parents, instant qualification for any job training or employment assistance programs currently in use in Montana for noncustodial parents, and a low-interest (2%) loan for noncustodial parents who are employed and 3 months or more in arrears on a child support payment.[23]

ACTION/RECOMMENDATION: The Committee took no formal action as a result of the information presented by the CSED and the members of the public who testified. The Committee did ask the DPHHS to prepare a response to the public comment and deliver it at the JOCCF's August 1998 meeting.

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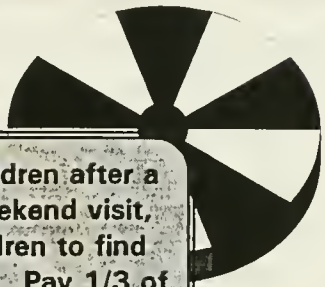
23 See "The Montana Plan" (Exhibit #15 in the JOCCF minutes), presented to the JOCCF by Michelle Lee at the Committee's June 22, 1998, meeting.

It's Your Turn!
Spin #11



You are awarded primary custody of your children after a particularly contentious divorce. During a weekend visit, your ex-spouse leaves the state with the children to find a judge who will modify the custody decision. Pay 1/3 of your salary this turn and lose two turns in court determining which court has jurisdiction over your case.

RATIONALE

In August 1998, for the first time in institutional memory, a sitting attorney general and a sitting Supreme Court justice appeared before a legislative interim committee. Attorney General Joe Mazurek, Supreme Court Justice James Nelson, and Code Commissioner Greg Petesch, representing the Montana delegation to the National Conference of Commissioners on Uniform State Laws (NCCUSL), brought the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) to the attention of the Committee at its January 8, 1998, meeting. At that meeting, Mr. Petesch provided members with an introduction to the issue and a draft bill implementing the UCCJEA, with comments explaining each section. Following a second presentation in August by Attorney General Mazurek, Supreme Court Justice Nelson, and Mr. Petesch, the JOCCF agreed to request the UCCJEA as a Committee bill and work toward finding sponsors.

QUICK FACTS

- The NCCUSL is a 106 year-old organization made up of more than 300 lawyers, judges, and law professors, appointed by the states as well as by the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The NCCUSL drafts proposals for uniform and model laws and advocates for their enactment in legislatures. The NCCUSL has promulgated more than 200 uniform acts, including the Uniform

Commercial Code, the Uniform Probate Code, and the Uniform Partnership Act.

- In 1968, the Uniform Law Commissioners developed the Uniform Child Custody Jurisdiction Act (UCCJA) to address the relative ease with which a noncustodial parent could take his or her child out of state to find a court that would modify or reverse the original court's custody order. The UCCJA was adopted in every state.

- Although the UCCJA establishes jurisdiction in one state and protects the original custody order from modification, it does not address interstate enforcement of custody orders, nor does it mesh cleanly with the federal Parental Kidnapping Prevention Act of 1981 (PKPA). The UCCJA and the PKPA differ in two major areas.

  - The UCCJA does not give first priority to the child's home state in determining which state should have jurisdiction over a child custody case. The PKPA does recognize the home state.

  - The PKPA provides that once a state has established and exercised jurisdiction in a custody case, that state retains exclusive jurisdiction until every person named in the case has left the state. The UCCJA states that "a legitimate exercise of jurisdiction must be honored by any other state until the basis for that exercise of jurisdiction no longer exists".[24]

- Many states have had laws addressing the interstate enforcement of child custody orders, but neither the PKPA nor the UCCJA included such provisions.

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24 "Uniform Child Custody Jurisdiction and Enforcement Act--A Summary." The National Conference of Commissioners on Uniform State Laws, Internet Page: www.nccusl@nccusl.org/summary/uccjea.html.

- The UCCJEA reconciles the differences described above between the PKPA and the UCCJA by supporting the PKPA position on home state jurisdiction and exclusive continuing jurisdiction for the home state, and it expressly provides for interstate enforcement of child custody orders.

- The UCCJEA also seeks to clarify a number of murky custody provisions that have plagued courts for years. These include:

  - determination of emergency jurisdiction to protect a child on a temporary basis while the court with jurisdiction issues an order;

  - a comprehensive definition of a "custody determination" to specifically include visitation with the noncustodial parent and "custody proceeding" to include all types of legal actions in which custody or visitation *may* be an issue;

  - elimination of the phrase "best interests of the child" to preclude interpretation of the phrase as an "invitation to address the merits of the custody dispute in the jurisdictional determination or to otherwise provide that the 'best interests' considerations should override jurisdictional determinations or provide an additional jurisdictional basis";[25] and

  - clarification regarding the UCCJEA's applicability to tribal custody proceedings and determinations.

- Alaska and Oklahoma have adopted the UCCJEA, while 12 more states expect introduction of the measure during 1998.

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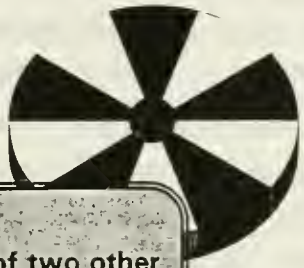
25 Comments provided with draft legislation by Greg Petesch, Code Commissioner, to the JOCCF at its January 8, 1998, meeting (Exhibit #13 of meeting minutes).

ACTION/RECOMMENDATION: **The JOCCF directed staff to submit a formal bill draft request on its behalf that implements the UCCJEA in Montana (Appendix K).**

It's Your Turn!
Spin #12



If your income is below that of two other players and you have children, you qualify for the Children's Health Insurance Program. Collect a CHIP health insurance certificate and ignore any spaces on the board requiring hospital payments.

RATIONALE

When President Clinton signed the Balanced Budget Act (Act) in August 1997, the JOCCF had yet to hold its first meeting of the 1997-98 interim. A key provision of the Act that ended up occupying significant time and energy on the part of the DPHHS and the Committee was the creation of a new Title XXI of the Social Security Act, known as the Children's Health Insurance Program or CHIP. The JOCCF's role in assisting with the development of Montana's state CHIP plan began with Senator Glaser, Senator Eck, and Representative Squires serving on the CHIP advisory council formed by the DPHHS in September 1997. The JOCCF heard regular reports on the progress of the advisory council discussion and the components of the state plan that had begun to gel. The Committee began to take a more active role as news of CHIP began to spread among other legislators and the public. On February 11, 1998, the JOCCF convened a special meeting to discuss CHIP with DPHHS staff and advise the DPHHS on what kind of plan had the best chance of winning legislative approval.

QUICK FACTS

CHIP Basics - General

- The 1997 Act provides $20.3 billion to be released to states over a 5-year period for children's health insurance.

- The intent of CHIP is to provide insurance to the children of working poor families--those families who make too much to qualify for Medicaid but cannot afford private health insurance.

- The federal government developed allotments for each state, based on census data indicating the state's population of low-income families, with low-income defined as below 200% of the federal poverty level ($27,300/year for a family of three). Each state must also match its federal allotment at a rate determined by the federal government.

- States have the option of using the funds allocated them to expand Medicaid, create a separate insurance program, or implement a combination of both.

- A state must submit a detailed plan for using the funds to the federal Health Care Financing Administration (HCFA) for approval.

CHIP Basics - Montana

- Census data indicates that there are 20,000 Montana children living in families below 200% of the federal poverty level.

- Montana must provide a 20% match for its federal allotment, which will total up to $47 million over the next 5 years. The match rate is based on the federal Medicaid rate and will be reevaluated each year.

- The DPHHS submitted Montana's state plan on April 10, 1998, and it was approved by the HCFA on September 11, 1998. Montana was the 36th state to win HCFA approval of its CHIP state plan.

- On February 9, 1998, Insurance Commissioner Mark O'Keefe announced that he had reached a settlement with Washington National Insurance Company and Pioneer Life Insurance Company. As part of the settlement, the insurance companies agreed to pay the state $210,000, which the state must use on or before December 31, 1998. Montana's options, as specified in the settlement, were to use

the $210,000 to draw down federal matching funds for CHIP or to use it to fund no-obligation grants to Montana public health clinics that provide care for uninsured and underinsured patients. The state chose the former option, planning to launch CHIP in two phases.

- Phase I will use the settlement dollars to access $840,000 in federal money for a total of $1,050,000 to initiate the project and serve approximately 950 uninsured kids. Phase II, if approved and funded by the 56th Legislature, will extend CHIP benefits to additional children. Estimates are that 9,100 kids can be served through full implementation and funding of the program.

The Plan [26]

- The DPHHS held dozens of public meetings around the state to afford citizens the opportunity to learn of the project and provide comment. Through these meetings, consultation with the CHIP advisory council, and discussions with the JOCCF, [27] the DPHHS decided to develop a separate insurance plan, rather than a Medicaid expansion or a combination of both.

- **Eligibility:** Montana's CHIP will target all children ages 0 to 18 years at or below 150% of the federal poverty level. A family's financial eligibility will be based on the family's adjusted gross income, and there will be no asset or resource tests. The DPHHS fully expects Medicaid enrollment to rise as families are found ineligible for CHIP but eligible for Medicaid.

  A child is ineligible for CHIP if the child is covered under a group health plan or other coverage as that is defined in section 2791 of the Public Health Service Act, if the child is eligible for Medicaid, if the

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26 The plan as described applies to Phase I of CHIP. The Legislature will have the opportunity to modify certain provisions of the state plan as the legislation is introduced. Once approved, the HCFA allows for modifications of states' plans if they remain in compliance with the regulations.

27 The JOCCF's recommendations to the DPHHS are detailed under the heading "Action/Recommendation".

child has a parent who is a state employee, or if the child is not a U.S. citizen or legal alien.

Once a child is enrolled in CHIP, that eligibility remains in effect for a year.

- **Insurance:** CHIP-eligible families may choose insurance from either an indemnity insurance plan or a health maintenance organization (HMO). The DPHHS will contract with insurance companies for delivery of services.

- **Benefits:** Benefits covered in the plan as it will be proposed to the Legislature include: inpatient and outpatient hospital services; physician services; laboratory and x-ray services; well-child and well-baby services, including age-appropriate immunizations; prescription drugs; mental health and substance abuse treatment services; and hearing and vision exams, excluding eyeglasses and hearing aids.

- **Application Process:** The DPHHS will develop an application for CHIP separate from the one that it uses for Medicaid because CHIP does not require an asset and resource test in determining eligibility and Medicaid does. A family who applies for CHIP and is found ineligible will be directed to the Medicaid program and will have to complete a Medicaid application.

- **Cost Sharing:** Families at or above 100% of the federal poverty level will pay a $15 annual enrollment fee. Copayments for each child in families at or above 100% of the federal poverty level will be $25 for each inpatient hospital admission; $5 for each emergency room visit, outpatient hospital visit, or brand name prescription; and $3 for each physician or other practitioner visit and for a generic drug prescription. Copayments will be capped at $200 a family a year and will be collected by the health care provider.

- **Outreach:** In Phase I, outreach activities will target children who get child care subsidies from the state, children who have left the federal

Medicaid rolls, Indian Health Service kids who don't have Medicaid or private insurance, kids on the waiting list for the Caring Program for Children (Caring Program),[28] and kids in the Mental Health Access Plan MHAP. If the 1999 Legislature approves and funds CHIP, the DPHHS will conduct its outreach activities by directly appealing to families through public service announcements and press releases; coordinating with school districts; coordinating with local human service agencies, advocacy groups, churches, tribal health officials, Head Start, and the Montana Child Care Resource and Referral Network; and collaborating with the Montana Coalition of Healthy Mothers, Healthy Babies and the Montana Council for Maternal and Child Health.

- **Coordination with the MHAP:** The MHAP will provide outpatient services to CHIP enrollees who meet the state's criteria for being seriously emotionally disturbed and for enrollees who are in need of mental health services beyond what is offered through CHIP. Inpatient services will be arranged between the insurance plans and the MHAP. CHIP enrollees who do not meet the criteria for being seriously emotionally disturbed (ineligible for the MHAP) will receive coverage for up to 21 inpatient days of combined mental health and chemical dependency benefits each year.

- CHIP does not replace the Caring Program, nor does it duplicate the services that the Caring Program provides.

- **Coordination:** Efforts to coordinate the services among CHIP, Medicaid, and the Caring Program include the following:

    - Medicaid applicants who are found ineligible for Medicaid will be asked to sign a release form

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28 The Caring Program, administered by Blue Cross/Blue Shield, provides primary, preventive health care services to uninsured children. The Caring Program is not health insurance. See the next section for more details on the Caring Program.

authorizing their Medicaid application information to be used in determining CHIP eligibility.

- CHIP applicants who appear to be eligible for Medicaid will be given assistance in completing a Medicaid application.

- Children enrolled in the Caring Program will have a choice of whether to remain with the Caring Program or apply for CHIP.

- Children on the Caring Program waiting list will be one of the groups targeted for enrollment in Phase I of CHIP.

ACTION/RECOMMENDATION: At its CHIP meeting on February 11, 1998, the JOCCF agreed (unanimously on all but one vote) to a number of recommendations for the state CHIP plan.[29] The JOCCF developed the recommendations as a means of conveying to the DPHHS specifics of a plan that Committee members believed had the best chance of winning legislative approval.

The JOCCF's Recommendations dated February 11, 1998[30]

- ❑ **Pilot Program:** The Committee unanimously recommends that the DPHHS initiate a CHIP pilot program as soon as possible immediately after approval of the state's plan by the HCFA.

- ❑ **Medicaid Expansion:** The Committee unanimously recommends that an expansion of Medicaid not be included as part of the state's CHIP plan.

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29 It is important to note that even though all votes but one were unanimous, members from both political parties compromised on various aspects of the recommendations in order to send a united, bipartisan message that CHIP had the JOCCF's full endorsement.

30 The JOCCF's recommendations were forwarded to Governor Racicot and copied to DPHHS Director Ekanger and the chairs of the Senate Finance and Claims and House Appropriations Committees. See Appendix L.

- **Benefit Package:** The Committee unanimously recommends that, as a starting point (leaving open the possibility of adding more services as CHIP authorization progresses through the Legislature), the CHIP benefit package for the pilot and the full program include the following:
  1. inpatient and outpatient hospital services;
  2. physician's surgical and medical services;
  3. laboratory and x-ray services;
  4. well-baby and well-child services, including age appropriate immunizations;
  5. prescription drugs;
  6. mental health and chemical dependency treatment services;
  7. vision services (excluding eyeglasses); and
  8. hearing services (excluding hearing aids).

- **Enrollment:** The Committee unanimously recommends that CHIP be designed to serve children from ages 0 to 18 whose family is at or below 150% of the federal poverty level, starting with the youngest children first and continuing until the money is gone.

- **Participant Ownership (Cost Sharing):** The Committee recommends by a vote of 7 to 1 that the DPHHS pursue ways for participants in CHIP to financially contribute to its operation at a level that will not preclude low-income families from enrolling in the program.

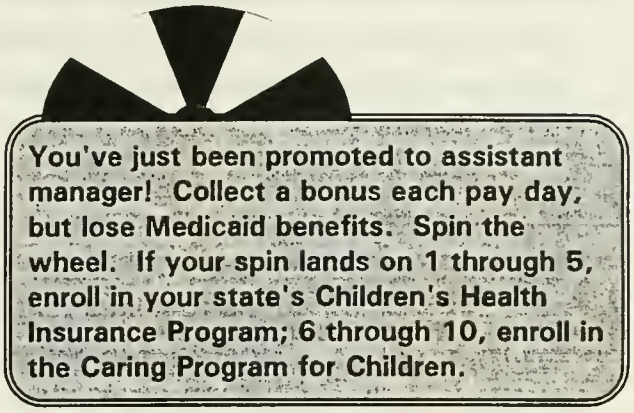
The JOCCF Final CHIP Recommendation dated August 17, 1998

- Following the DPHHS's final update to the JOCCF at its August 1998 meeting, the Committee adopted a motion to endorse the state CHIP plan and recommend that the DPHHS proceed with Phase I "with the understanding that this Committee ultimately wants a system that will provide insurance or health care for all children through Medicaid, CHIP, and the Caring Program [for Children]", adding that those three

entities must collaborate to ensure that all Montana children will have some type of health care or health insurance coverage.[31]

31 See the JOCCF minutes dated August 17, 1998; page 5.

It's Your Turn! Spin #13


You've just been promoted to assistant manager! Collect a bonus each pay day, but lose Medicaid benefits. Spin the wheel. If your spin lands on 1 through 5, enroll in your state's Children's Health Insurance Program; 6 through 10, enroll in the Caring Program for Children.

RATIONALE

The Caring Program was an integral part of all of the JOCCF's discussions surrounding CHIP during the interim because both programs target the working poor. Representatives from the Caring Foundation participated in the CHIP advisory council and reviewed with the JOCCF on several occasions the Caring Program structure, funding, and enrollment; differences between CHIP and the Caring Program; and ways that the two programs might collaborate.

QUICK FACTS[32]

- ❑ The Caring Program is administered at no cost to the consumer by Blue Cross and Blue Shield of Montana through the Caring Foundation.
- ❑ The Caring Program is *not* health insurance.
- ❑ The Caring Program provides basic primary and preventive medical and dental services to uninsured children at no cost to the families.
- ❑ The Caring Program is a public-private partnership that began in 1995 when the Legislature authorized the DPHHS to match Caring Program funds up to $500,000 in each year of the biennium. Funding was reauthorized in subsequent sessions of the Legislature, contingent upon the DPHHS having a surplus.

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32 Caring Program information was provided to the Committee at various stages during the interim by Blue Cross and Blue Shield's Chuck Butler and Susan Frazee, representing the Caring Foundation.

- The Caring Program served 2,030 children between January 1993 and January 1997 with immunizations, outpatient emergency and accident care, outpatient diagnostic x-ray and laboratory services, well-child and routine office visits, outpatient surgery (including anesthesia), and basic dental care.

- To be eligible for the Caring Program, a child must live in a family whose income is at or below 150% of the federal poverty level; may not be covered by health insurance or receive Medicaid benefits; and must be under 19 years of age, a Montana resident, enrolled in the Caring Program with all other eligible siblings, and enrolled in school through grade 12.

- Caring Program enrollees are not subject to copayments, deductibles, health restrictions, or preexisting condition restrictions. Providers who participate in the program accept a reimbursement rate for services lower than the typical rates received.

- In June 1997, 1,148 children were being served by the Caring Program, with 760 on the waiting list. In August 1998, the Caring Program was serving 817 children, with 300 on the waiting list.

- Children who are determined eligible for the Caring Program are also likely to be eligible for CHIP, so coordination between these two programs is essential to ensure that the most children possible are served.

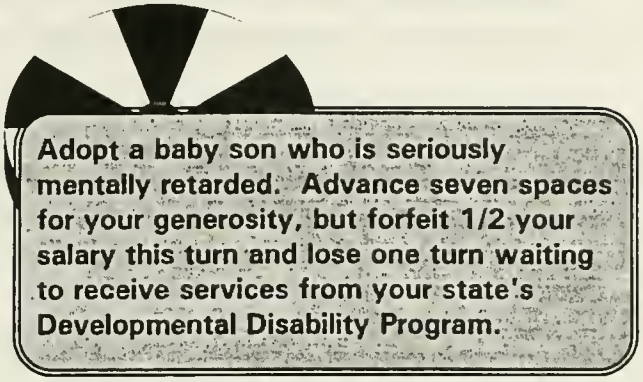
- The children on the Caring Program waiting list make up one of the groups that will be targeted for Phase I of CHIP.

ACTION/RECOMMENDATION: The Committee took no formal action as a result of the Caring Program information.

During the interim process, the JOCCF had expressed concern that CHIP implementation would endanger the Caring Program if CHIP assumed the Caring Program's state funding and if providers and

potential donors had the impression that CHIP duplicated Caring Program services. On several occasions, Committee members voiced their approval of the work being done by the Caring Program and asserted that CHIP must not be implemented at the expense of the state's support for the Caring Program.

It's Your Turn! Spin #14


Adopt a baby son who is seriously mentally retarded. Advance seven spaces for your generosity, but forfeit 1/2 your salary this turn and lose one turn waiting to receive services from your state's Developmental Disability Program.

RATIONALE

The Developmental Disabilities Program (DDP or Program) of the DPHHS's Disability Services Division (DSD) responded to the Committee's early-interim questionnaire (Appendix C) requesting that the Committee learn about the DDP and lend its support to funding the projects that the DSD hoped would be included in the DPHHS's EPP. At its January 8, 1998, meeting, the Committee heard a presentation from DDP staff.

QUICK FACTS[33]

- ❑ According to the DDP mission statement, the Program "supports voices, choices, and opportunities for people with developmental disabilities to live and thrive as members of their communities. The Developmental Disabilities Program believes in being responsible, accountable stewards of the public trust in finding the most efficient and effective way to deliver services that people need, when and where they want them."

- ❑ DDP staff discussed three issues with the Committee: the waiting list for services; the need for funding crisis intervention; and the Lifespan Respite project.

- ❑ In June 1997, 627 individuals were receiving DDP services and 342 were on a waiting list. Of those on the waiting list, 180 were adults and 162 were children. As of June 1998, 3,350 Montanans were

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33 The information for the "Quick Facts" on disability services was provided to the Committee January 8, 1998, by Jan Spiegle-Stinger, DDP program officer. See Exhibits #11 and #12, the JOCCF Minutes dated January 8, 1998.

receiving DDP services and 412 were on the waiting list. Of those on the waiting list, 225 were adults and 187 were children.

- DDP staff reported to the Committee the need for crisis response capacity. "Because of the nature of developmental disability," information provided by the DDP states, "the potential for crisis always exists for a number of families within our system."

- Inconsistent and inadequate funding are hampering the DDP from establishing the kinds of crisis response services that are needed. According to Program staff, the costs of funding crisis response services are unpredictable (varying tens of thousands of dollars each year), which makes it difficult for the DSD to procure funding.

- DDP staff told the Committee that a number of families have been identified as in need of crisis intervention. The cases involve severely mentally retarded children and adults whose caregivers need help providing the intensive treatment that developmental disabilities demand. In one instance, a mother has threatened to abandon her child if foster care placement is not found; in several other cases, severely disabled individuals are living with parents or grandparents who are elderly and have neither the physical strength nor the financial resources to continue caring for their dependents.

- Lifespan Respite is a concept that "recognizes that all families and caregivers providing extraordinary care need occasional breaks".

- The goal of respite care is to provide enough relief for the caregiver that the caregiver will be less likely to place the person with the disability in a nursing home, in foster care, or in other costly residential care.

- There are respite programs operating in Montana that help families dealing with developmental disabilities, Alzheimer's disease, child abuse and neglect, domestic violence, terminal illnesses, physical disabilities, and emotional problems. Lifespan Respite seeks to

coordinate all of the respite programs to provide a single point of contact for training, recruitment, and referrals.

- DDP staff believe that "collaboration among respite programs [Lifespan Respite] makes better use of existing resources and provides the focus and staffing to generate additional financial and volunteer support for families".

- According to the DDP information, the potential benefits of a Lifespan Respite Program include prevention of abuse and neglect, self-sufficiency for families and in-home care for the disabled person, the opportunity for volunteerism in a community, public awareness of the problems families face when caring for a person with special needs, formation of public-private partnerships, and cost-effectiveness.

- The DDP indicated that it would be seeking funding through the DPHHS's EPP process to reduce waiting list numbers, develop consistent crisis intervention services, and help create a Lifespan Respite pilot project.

ACTION/RECOMMENDATION: The JOCCF took no formal action on the requests submitted by the DDP.

The Committee found that learning about the DDP and the services that it provides was a valuable component of its interim education. The Committee determined, however, that since the DDP is just one of many divisions of the DPHHS with funding needs, it would be inappropriate to single it out for a statement of Committee support.

PART V: OVERSIGHT, UPDATES, MONITORING

With "Oversight" being the "O" in JOCCF, the Committee created a separate category for issues that members believed they needed to stay on top of but, with the exception of the Interagency Coordinating Council for State Prevention Programs (ICC), were the domain of other interim committees.

Interagency Coordinating Council for State Prevention Programs

At the behest of the Joint Oversight Committee on Children and Families, the 1993 Legislature passed Senate Bill No. 34 during that year's special session, establishing the ICC.

According to the ICC's mission statement, its goal is to "develop a comprehensive and coordinated prevention delivery system designed to strengthen the healthy development, well being, and safety of Montana's children, families, communities, and individuals".

The membership and duties of the ICC are detailed in 2-15-225, MCA. Current membership includes Executive Branch department directors, Lieutenant Governor Judy Martz, Attorney General Mazurek, Superintendent of Public Instruction Nancy Keenan, and various prevention advocates. The duties read as follows:

(1) develop, through interagency planning efforts, a comprehensive and coordinated prevention program delivery system that will strengthen the healthy development, well-being, and safety of children, families, individuals, and communities;

(2) develop appropriate interagency prevention programs and services that address the problems of at-risk children and families and that can be provided in a flexible manner to meet the needs of those children and families;

(3) study various financing options for prevention programs and services;

(4) ensure that a balanced and comprehensive range of prevention services is available to children and families with specific or multiagency needs;
(5) assist in development of cooperative partnerships among state agencies and community-based public and private providers of prevention programs;
(6) prepare and present to the legislature and to the appropriate standing and interim legislative committees a unified budget for state prevention programs, which must be published in the governor's executive budget;
(7) develop, maintain, and implement benchmarks for state prevention programs. As used in this subsection, "benchmark" means a specified reference point in the future that is used to measure the state of affairs at that point in time and to determine progress toward or the attainment of an ultimate goal, which is an outcome reflecting the desired state of affairs; and
(8) cooperate with and report to any standing or interim legislative committee that is assigned to study the policies and funding for prevention programs or other state programs and policies related to children and families.

ICC representatives reported to the JOCCF on a regular basis during the interim, including its progress in developing the Unified Budget for Prevention and soliciting comments and suggestions from the Committee on how best to format and present the budget.

Committee members participated in an ICC orientation session intended to familiarize state agency staff with the purpose of the ICC and the activities in which the ICC engages around the state.

The ICC did respond to the Committee's questionnaire (Appendix C) with a request that the Committee examine the Montana Youth Court Act, the statute prohibiting the sale of tobacco products to minors, and minors in possession laws.

The JOCCF's relationship with the ICC this interim may have been more detached than in previous interims, in part because of the Committee's overall interim strategy, the emergence of CHIP as a front-burner issue, and the financial and time constraints that the Committee faced.

The Committee on Indian Affairs

The Committee on Indian Affairs (CIA) is a statutory committee authorized in Title 5, chapter 19, part 1, MCA. Because issues that affect non-Indian children and families also affect Indian children and families, the JOCCF received updates on the progress of the CIA's interim work.[34]

The CIA examined welfare and economic development on Montana reservations, specifically studying how well welfare reform was working and what the Tribal Business Information Centers were doing to promote Indian-owned businesses. The CIA also discussed the statewide economic development initiative, "Montana Jobs: Putting People First", and visited the Northern Cheyenne Reservation.

Along with the CIA, the JOCCF was asked to support continued funneling of federal TANF block grant dollars to the Montana reservations for operation of welfare reform projects. The JOCCF agreed without hesitation and sent a letter to that effect to Director Ekanger (Appendix M).

Mental Health Access Plan

The Legislative Finance Committee assumed the primary responsibility for monitoring the state's mental health managed care system, also known as the Mental Health Access Plan (MHAP).

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34 See "Encouraging State-Tribal Cooperation: The 1997-98 Activities of the Committee on Indian Affairs" prepared by Connie Erickson, Legislative Research Analyst, Legislative Services Division, for a complete report on the CIA's interim work.

The JOCCF did not wish to duplicate the work being done by the Legislative Finance Committee, so its involvement was limited to regular updates from the DPHHS and from Montana Community Partners. Chairman Soft serves with Senator Mignon Waterman on the DPHHS's MHAP advisory council.

Correctional Standards and Oversight Committee

One of the offshoots of the Correctional Standards and Oversight Committee (CSOC)[35] was a Juvenile Issues Subcommittee, which shared some of the same concerns that the JOCCF members had expressed regarding juvenile placement and the importance of comprehensive services for kids once they have entered the correctional system.

Early in the interim, CSOC staff reported to the JOCCF the CSOC's plans for interim study and later discussed with the JOCCF the state's sex offender treatment program.

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35 See "Correctional Reference Guide and Final Report" prepared by Susan Fox, Legislative Research Analyst, Legislative Services Division, for details on the CSOC's interim work.

PART VI: DAY OF RECKONING

At the end of the long and winding road on The Game of Life board lies the Day of Reckoning, the Poor Farm, and Millionaire Acres. Every plastic car must stop at the Day of Reckoning where players collect $20,000 for each child, pay their debts to the bank (with interest), and decide whether they wish to proceed to Millionaire Acres and win the game by having the most money or try their luck at becoming a Millionaire Tycoon. Every player has the opportunity to become a Tycoon, regardless of how the rest of life has treated the player. It's as simple as choosing a number and spinning the wheel. If you are the first to try and the spin lands on your lucky number, you not only are a Millionaire Tycoon, but you have instantly won the Game. If you try and lose, you take up residence at the Poor Farm.

Whether to go directly to Millionaire Acres or bet on the wheel is a choice. The outcome of the wheel's spin is chance. Each player's unique formula determines the Game's outcome. In this Game, if you lose, you throw all your money (if there is any left) and your plastic car at the winner and storm out of the room. The next day, all is forgotten, and you are ready once again to start out on your own with $2,000 crisp dollars and your high school diploma. But in real life, if you risk everything on a long shot and lose or if circumstances bring you nothing but bills, injuries, irresponsible spouses, and unemployment, you cannot simply storm out of the "room" and forget about it. You have to deal with it and maneuver through the maze of laws, regulations, services, and fees to recover from life's unfortunate episodes.

Unlike the Game, real life is replete with real unhappiness, real hunger, real abuse, and real children with real needs and real dreams. Life for many people is certainly not a "game" as its primary definition in *Webster's* reads (an "activity engaged in for diversion or amusement; play"). Some of the word's secondary definitions ("a procedure or strategy for gaining an end", "a field of gainful activity", "a specified type of activity or mode of behavior", and "a physical or mental competition conducted according to rules with the participants in direct opposition to each other"), however, suggest the struggle, achievement, and conflict inherent in real life.

During the 1997-98 interim, the Joint Oversight Committee on Children and Families immersed itself in the rules of the real game and its players. Members sought to learn as much as possible about how chance and choice in the lives of Montanans mingle with the money, regulations, federal requirements, and laws that shape the infrastructure in which the state's family policy lies. The Committee chose to act as an information clearinghouse, using the time and money expended during the interim to "purchase" knowledge and to pass that knowledge on to anyone who is interested or may need it to make the thoughtful decisions during the session that are demanded on a daily basis. If this handbook is used as it is intended, as a bipartisan human service reference guide for the 1999 legislative session, then the Committee has indeed made a wise purchase.

APPENDICES

CHAPTER 7
MONTANA FAMILY POLICY ACT

Part 1
Family Policy Act

Chapter Compiler's Comments:

Preamble: The preamble attached to Ch. 98, L. 1993, provided: "WHEREAS, the family is the basic institution in society through which our children's sense of well-being and self-esteem are developed and nurtured; and

WHEREAS, because our entire society benefits when families function well, it is in society's best interest to ensure that public policies and programs support and strengthen family life; and

WHEREAS, in fiscal year 1992, 3,310 Montana children and youth were removed from their families and placed in foster homes, group homes, and residential treatment facilities at a cost to the state of more than $16 million; and

WHEREAS, because of the high level of expenditures required to provide out-of-home placement, many experts now question whether public revenue spent for room, board, and related costs might be more wisely spent providing services specifically needed to enable a family to continue functioning as a family; and

WHEREAS, mounting evidence demonstrates that efforts that are made to support and strengthen vulnerable families before a crisis occurs can substantially contribute to family health and stability and prevent future long-term governmental costs; and

WHEREAS, because even with a reformed service system for families, some parents will not be available or able to protect or care adequately for their children, a range of out-of-home services should be available for these children and their families; and

WHEREAS, state and local policymakers increasingly are examining entire state systems for serving troubled children and families and are developing a more comprehensive approach to the multifaceted problems they face; and

WHEREAS, just as families nurture and sustain their members, healthy communities do the same for their member children and families; and

WHEREAS, because family services should be rooted in local communities and reflect local needs, characteristics, and resources, services should be provided as close as possible to the home community of the child or family and families should be fully involved in the planning and delivery of those services; and

WHEREAS, promoting family well-being and assuring children's safety must be the concern of all community sectors."

Legislative Oversight Committee: Chapter 301, L. 1993, created a joint legislative oversight committee on children and families.

Collateral References:

Working Together to Improve the Continuum of Services to Children and Families: A Report to the 54th Legislature, Merrill, Mont. Leg. Council (1994).

41-7-101. Short title. Section 41-7-102 and this section may be cited as the "Montana Family Policy Act".

History: En. Sec. 1, Ch. 98, L. 1993.

41-7-102. Policy and guiding principles. (1) It is the policy of the state of Montana to support and preserve the family as the single most powerful influence for ensuring the healthy social development and mental and physical well-being of Montana's children.

(2) The following principles must guide the actions of state government, state agencies, and agents of the state that serve children and families:

(a) Family support and preservation must be guiding philosophies when the state, state agencies, or

agents of the state plan or implement services for children or families. The state shall promote the establishment of a range of services to children and families, including the following components:

(i) supporting families toward healthy development by providing a community network that offers a range of family support services, activities, and programs designed to promote family well-being, with services that include prenatal care, parenting education, parent aides, and visiting nurses; early childhood screening and developmental services; child care; and family recreation;

(ii) assisting vulnerable families before crises emerge by providing specialized services to strengthen and preserve families experiencing problems before they become acute and by providing early intervention and family support services, such as respite care, health and mental health services, and home-based rehabilitation services linked to services in subsection (2)(a)(i);

(iii) protecting and caring for children in crisis by providing intensive services to protect children who have suffered or are at risk of suffering serious harm from child abuse and neglect, by providing care for children at risk of out-of-home placement for emotional disturbances or behavior problems, and by providing family support services to ensure that reasonable efforts are made to safely maintain children in their own homes or to provide temporary or permanent care for children who are removed from their families. These services include family-based services to avoid removal from the home whenever possible and to provide out-of-home care, reunification services, adoption services, and long-term substitute care.

(b) To maximize resources and establish a range of services driven by the needs of families rather than by a predetermined array of categorical services, the state, state agencies, and agents of the state shall work toward a system of comprehensive and coordinated services to children and families through joint agency planning, joint financing, joint service delivery, common intake and assessment, and other arrangements that promote more effective support for families.

(c) Needed services to children and families should be provided as close as possible to the home community. The state, state agencies, and agents of the state shall encourage community planning and collaboration. State agencies shall cooperate to support collaborative programs.

(d) The state encourages all sectors of society to participate in building the community capacity to meet the needs of children and families.

(3) The family policy objectives described in this section are intended to guide the state's efforts to provide services to children and families. This section may not be construed to require a service or a particular level of service or to grant a right of action to enforce this section or other law.

History: En. Sec. 2, Ch. 98, L. 1993.

CHAPTER 22
COMMITTEE ON CHILDREN AND FAMILIES

Cross References:
Family Law, Title 40.
Minors, Title 41.

Collateral References:
Working Together to Improve the Continuum of Services to Children and Families, Report to the 54th Legislature, Mont. Leg. Council (1994).

Part 1
General Provisions

Chapter Compiler's Comments:
Preamble: The preamble attached to Ch. 414, L. 1995, provided: "WHEREAS, the Joint Oversight Committee on Children and Families, established by Chapter 301, Laws of 1993 (House Bill No. 19), was recommended as a permanent study committee by the Joint Interim Subcommittee on Children and Families at the conclusion of the 1991-92 interim; and

WHEREAS, the Joint Oversight Committee on Children and Families was assigned to study many of the issues that are also designated as appropriate, ongoing study areas within this reauthorization legislation; and

WHEREAS, the Joint Oversight Committee on Children and Families concluded its 1993-94 interim study assignments by recommending numerous policy and programmatic changes that are presented in the Committee's final report to the 54th Legislature.

THEREFORE. the Legislature of the State of Montana finds it appropriate to make permanent a Joint Oversight Committee on Children and Families to continue monitoring the implementation of legislative recommendations and to continue further study of emerging issues related to programs for children and families in Montana."

Effective Date: Section 4, Ch. 414, L. 1995, provided that 5-22-101 and 5-22-102 are effective July 1, 1995.

5-22-101. Legislative oversight committee -- appointment -- staff assistance. (1) (a) There is a joint oversight committee on children and families. The oversight committee is composed of eight members who are appointed as follows:

(i) four members of the house of representatives, not more than two of whom may be from one political party, appointed by the speaker of the house; and

(ii) four members of the senate, not more than two of whom may be from one political party, appointed by the committee on committees.

(b) The members appointed under subsection (1)(a) must include representatives from the house appropriations subcommittee on human services and aging and the senate finance and claims subcommittee on human services and aging.

(2) In case of a vacancy, a replacement must be selected in the manner of the original appointment.

(3) Members are entitled to salary and expenses as provided in 5-2-302.

(4) The oversight committee may request staff assistance from the legislative services division, which assistance may be provided within limits established by the legislative council, given other priorities and responsibilities.

(5) Each state agency that provides services or funding for a program or service for children and families shall provide assistance and information upon request of the oversight committee.

History: En. Sec. 1, Ch. 414, L. 1995; amd. Sec. 28, Ch. 42, L. 1997.

Compiler's Comments:
1997 Amendment: Chapter 42 in (4) substituted "legislative services division" for "legislative council". Amendment effective March 12, 1997.

5-22-102. Duties of oversight committee. The joint oversight committee on children and families shall:

(1) examine public and private programs, services, and planning for children and families for the purpose of identifying duplications, inefficiencies, and any unmet needs within those programs, services, and plans;

(2) review federal, state, local, and private funds available to state and local jurisdictions for programs and services for children and families and consider feasible methods of refinancing those resources to maximize overall funding for existing and new programs;

(3) monitor interagency coordination of programs and services for children and families and study ways to improve coordination and collaboration among public and private human service providers at all levels of government in Montana;

(4) study the issues surrounding teenage parents and their families, including problems related to employment, education, parenting skills, and public assistance;

(5) monitor implementation of state and national welfare reforms related to at-risk families, child care, teenage parents, and other human service concerns;

(6) continue to study issues related to adult protective services;

(7) conduct an oversight committee performance evaluation at the conclusion of each interim; and

(8) report the results of its study in writing to each regular session of the legislature. The oversight committee shall also provide copies of its report to the governor and appropriate state agencies.

History: En. Sec. 2, Ch. 414, L. 1995; amd. Sec. 1, Ch. 257, L. 1997.

Compiler's Comments:

1997 Amendment: Chapter 257 inserted (7) requiring an oversight committee performance evaluation after each interim; and made minor changes in style.

APPENDIX C

Council Senate Members
GARY AKLESTAD
AL BISHOP
B.F. "CHRIS" CHRISTIAENS
BRUCE D. CRIPPEN
MIKE HALLIGAN
DEBBIE SHEA

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TO: Joint Oversight Committee on Children and Families Interested Persons

FROM: Leanne Kurtz, Research Analyst

DATE: July 2, 1997

RE: August 25 meeting

The Joint Oversight Committee on Children and Families (JOCCF) will hold its first meeting of the 1997-98 interim on Monday, August 25 at 8:00 a.m. in room 437 of the State Capitol. On the back of this notice please find a tentative agenda for the meeting.

This agenda is subject to change, but as it stands, beginning mid-morning, a portion of the meeting will be devoted to agency staff and interested persons. This "agency forum" is intended to allow agency staff, program heads, service providers, and others an opportunity to relay to the Committee **precisely** what they would like the products of the 1997-98 interim to be.

As most of you are aware, the Committee has a limited amount of time and limited staff resources with which to fulfill its statutory obligations. By presenting members with specific suggestions for final products (legislation, funding, research reports, letters, resource guides), agencies and interested persons will be able to see **tangible** results of the Committee's work by the conclusion of the interim. If you would like to participate in the agency forum at the first meeting, please submit by August 8 a written "wish list" of end-products; items that you, your organization or your agency need that the Committee has the power and resources to provide. You may use the enclosed form as a guideline. I will compile the responses and send them to Committee members prior to the meeting. Responses received after August 8 will be placed in Committee members' meeting packets. Time will be limited for the agency forum portion of the agenda, so it is important that participants be succinct in listing and expressing their needs. Also, written testimony will be critical to ensure as complete a record of the agency forum as possible.

If you have any questions about the meeting or the agency forum, please feel free to call me, write me, or email me at lekurtz@mt.gov.

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WISH LIST

Joint Oversight Committee on Children and Families
1st Meeting - August 25th, 1997

Name/Organization:

Address:

Phone/FAX/email:

1. What is your organization's primary mission or objective? If you represent yourself, what is your interest in the Committee?

2. Briefly describe the problem(s) that the product(s) you are requesting from the Committee will help solve

3. What do you need from the Committee? (*List **tangible** products you would like to see emerge from this interim's work)*

Joint Oversight Committee on Children and Families

55th Montana Legislature

SENATE MEMBERS
VIVIAN M. BROOKE
DOROTHY ECK
SHARON ESTRADA
WM. E. "BILL" GLASER

HOUSE MEMBERS
BOB LAWSON
LOREN L. SOFT
CAROLYN M. SQUIRES
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COMMITTEE STAFF
LEANNE KURTZ
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DOUG STERNBERG
LEGAL RESEARCHER
LOIS O'CONNOR
SECRETARY

QUESTIONNAIRE FOR INTERESTED PERSONS

Joint Oversight Committee on Children and Families
1997-1998 interim evaluation

RESULTS

193 surveys sent
9 surveys returned

1. Do you believe the Committee effectively accomplished the goals it listed at the beginning of the interim? If not, why?

   Yes -- 6 responses

   "...was appreciative of the Committee's willingness to listen and support worthy human service programs."

   "...goals were broad, educational in nature. Committee is an important forum for human service issues, necessary when legislature meets so infrequently."

   "...in reading [5-22-102] and thinking about the Committee's work, I believe their mission was accomplished. This is a critical Committee in helping other legislators to understand issues which are key to children."

   No answer -- 2 respondents did not answer the question

   Other -- 1 respondent expressed unfamiliarity with the Committee goals, *but stated that the "Committee seemed attentive to issues & concerns - Committee seemed to understand issues as presented."*

2. How could the Committee be more effective in general?

   "Solicit more input from schools. Also follow up on changes made in 1997 to provide 'seamless' services for children and families."

"Perhaps release brief policy or research documents to assist legislature."

"Consistent attendance at each meeting would keep all members 'up to speed'...Absences on such a small committee mean that some voices are not heard/represented."

"Work more with the public instead of dictating to the public."

"Using information obtained in Committee meetings to assist in decision-making in the session."

3. Do you feel the Committee was appropriately responsive to you and/or your organization?

Yes -- 7 respondents

"We were delighted to be asked to present and delighted to be heard! Individual members of the committee could stand to do a little more preparation so that presenters do not have to re-explain each program every time."

"I appreciate your willingness to provide letters of support."

No -- 0 respondents

No answer -- 2 respondents

4. Overall, how do you rate the Committee's performance this interim?

Excellent	Good	Marginal	Not very effective	A waste of time
3	***4***	***0***	***0***	***0***

5. If you did not circle Excellent above, please elaborate and describe ways this Committee or another human service-related committee might improve next interim.

"1) Attend every meeting; 2) review all prepared material previous to meeting; 3) more timely response back to presenters - even if its just a letter saying the issue is 'under study or consideration.'; 4) make sure all presenters over the course of the year are getting updates/agendas/final decisions & reports."

"A little more focus, slightly too many topics."

6. What do you suggest needs to be examined by this Committee or another human service-related committee during the 1999-2000 interim?

"Duty #3 - Monitoring coordination/collaboration among/across state agencies - this is the hardest piece to make 'workable' and the one where the committee could really bring some emphasis, have tremendous influence."

"Mental health managed care; statewide employment and training; service economy strategies for self-sufficiency."

"On-going - how managed care affects children and families; continued review of child protective services - services to protect children & support families."

"You need to put in writing within 24 hours why a child is taken from a home. This letter should go to the family and the Helena office. This would stop children from being removed to justify a job, such as happened in Fergus County. State records should be more open to law enforcement and the legislature to investigate this type of problem."

"...safety and violence prevention; drop out prevention..."

"Child abuse prevention efforts and related state funding."

"Expanded mental health services for children/adolescents in Montana. Alternatives for community based programs now that area mental health groups have opted out of partnerships."

Joint Oversight Committ Children and Families

APPENDIX E

55th Montana Legislature

SENATE MEMBERS
VIVIAN M. BROOKE
DOROTHY ECK
SHARON ESTRADA
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HOUSE MEMBERS
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LEGAL RESEARCHER
LOIS O'CONNOR
SECRETARY

April 10, 1998

TO: Persons interested in the Kids Count Data Book

FROM: The Joint Oversight Committee on Children and Families

The Joint Oversight Committee on Children and Families is pleased to lend its support to the Healthy Mothers, Healthy Babies Kids Count Data Book Project. The Committee is a permanent, statutorily authorized interim committee of the legislature charged with a number of human service-oriented oversight and study activities. The Committee is composed of four Senators, four Representatives, four Democrats, and four Republicans, with varying degrees of experience in child and family-related issues.

At its November meeting, the Committee heard a presentation by Steve Yeakel, Executive Director of the Montana Council for Maternal and Child Health, about the Kids Count Data Book. Mr. Yeakel relayed to the Committee the purpose and uses of the information contained in the Data Book and asked for the Committee's support of the project. When some members wondered who in their districts used the information, Mr. Yeakel provided references from organizations and individuals who commented on the merits of the project.

As a group of legislators concerned with the well-being Montana's children, the Committee on Children and Families was naturally interested in the concept of a project that could enhance the opportunity for kids in Montana to live in emotionally, physically, and spiritually healthy environments. The Committee recognizes that some of a child's most acute needs, both emotional and physical, can best be addressed at the local level, where the intervention, attention, and care can be customized to the individual child in a familiar setting. By collecting and processing information on a county by county basis, the Data Book provides some valuable tools to allow communities to better understand the needs of their kids and where services may be lacking.

Without knowing how Montana's budget picture will take shape in the upcoming legislative session, Committee members were unable to promise any state funding for the project. In lieu of the promise of state funding, the Committee wishes to be on record as an advocate of the project and heartily encourages donations and support from communities, organizations, policy makers, and individuals who care about and want the best for Montana's kids.

Joint Oversight Commit
Children and Families

55th Montana Legislature

APPENDIX F

SENATE MEMBERS
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HOUSE MEMBERS
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LEGAL RESEARCHER
LOIS O'CONNOR
SECRETARY

TO: Healthy Mothers, Healthy Babies, the Montana Coalition Board Members

FROM: The Joint Oversight Committee on Children and Families

DATE: April 10, 1998

RE: The Montana Kids Count Project

Through a memorandum that may be used as Healthy Mothers, Healthy Babies sees fit, The Joint Oversight Committee on Children and Families has offered its support for the Kids Count Project. At its November meeting, the Committee heard a presentation from Mr. Steve Yeakel about the Project and its uses. When some members wondered who in their districts used the Data Book, Mr. Yeakel provided references from across the state that testified to the merits of the Project and the value of the information contained in the Book.

While the Committee was unable to promise state funding for the Kids Count Project, given the uncertainty of how the state's budget will take shape by next January, members did vote to go on record as supporting the concept and recognizing the importance of the data. The Committee also voted unanimously to encourage you, as members of the Healthy Mothers, Healthy Babies Board, to explore the feasibility of using the Internet as a means of getting this information into the hands of the people working with kids throughout Montana.

Finally, the Committee is aware of other studies aimed at improving the well-being of Montana kids. Members advocate continued collaboration and coordination among all of the entities gathering, analyzing, and using data on the behaviors, attitudes, education, and health of the children in this state to avoid duplication of effort and to help form a united front against the ills that plague too many of our young people.

Joint Oversight Committ
Children and Families

55th Montana Legislature

APPENDIX G

SENATE MEMBERS
VIVIAN M. BROOKE
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COMMITTEE STAFF
LEANNE KURTZ
RESEARCHER
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LEGAL RESEARCHER
LOIS O'CONNOR
SECRETARY

April 17, 1998

TO: Regional Advisory Councils
Laurie Ekanger, Director, DPHHS
Senator Chuck Swysgood
Representative Tom Zook

FROM: The Joint Oversight Committee on Children and Families

RE: Child Abuse Prevention Crisis Care

During the 1997-1998 interim, the Joint Oversight Committee on Children and Families heard from a number of organizations, state program staff, and concerned citizens about the needs (funding and otherwise) of Montana's kids and the challenges they face. One of these presentations, shared with the Committee by Sarah Lipscomb of the Montana Council for Families, involved crisis care and the distribution of federal block grant funds. Through this memorandum, the Committee wishes to express its support for crisis care as an effective means of preventing child abuse and neglect, and to encourage continued creative uses of federal block grant dollars to provide and expand crisis care services at the community level.

In 1993, the Montana Legislature passed the Family Policy Act, codified as Title 41, chapter 7, part 1, MCA and on September 26, 1997, the Joint Oversight Committee on Children and Families unanimously adopted a mission statement that pledged the Committee's support for and adherence to the letter and the spirit of the Montana Family Policy Act. This mission statement also contained the Committee's acknowledgment that services to children and families are most effective at the community level where people can receive specialized treatment in a familiar setting.

Section 41-7-102(2)(a)(ii) of the Family Policy Act declares that the state shall promote the establishment of programs that assist "vulnerable families before crises

emerge by providing specialized services to strengthen and preserve families experiencing problems before they become acute and by providing early intervention and family support services..." Subsection (iii) continues that the state shall promote the establishment of services to "protect children who have suffered or are at risk of suffering serious harm from child abuse and neglect,...by providing family support services to ensure that reasonable efforts are made to safely maintain children in their own homes or to provide temporary or permanent care for children who are removed from their families."

Crisis care is defined as short-term child care designed to provide services to fragile families before child abuse or neglect or removal of children to foster care occurs. This is precisely the kind of service described in the Family Policy Act.

The Department of Public Health and Human Services and the Montana Council for Families have used federal grant dollars to provide crisis care services in 11 Montana communities and on 3 Indian Reservations, serving, through the innovative use of the available dollars, 755 Montana families between September 1994 and September 1997.

Based on the information presented to the Joint Oversight Committee on Children and Families and the members' pledge to adhere to the tenets in the Family Policy Act, the Committee urges the State of Montana to continue its commitment to provide prevention services to families at risk of child abuse or neglect, thereby strengthening Montana families and providing promising futures for Montana's children. The Committee also encourages the Department of Public Health and Human Services and the Montana Council for Families to continue their efforts to creatively use federal block grant dollars to maintain and expand crisis care services at the community level.

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Joint Oversight Committe APPENDIX H
Children and Families

55th Montana Legislature

SENATE MEMBERS
VIVIAN M. BROOKE
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SECRETARY

April 17, 1998

TO: Regional Advisory Councils
Laurie Ekanger, Director, DPHHS
Senator Chuck Swysgood
Representative Tom Zook

FROM: The Joint Oversight Committee on Children and Families

RE: Child Abuse Prevention Parent Support Groups

April has been designated as Child Abuse Prevention Month for more than a decade. In light of this designation, it is particularly appropriate that at its April 17 meeting, the Joint Oversight Committee on Children and Families formally voices its support for child abuse prevention programs that have been proven to work in breaking the cycle of abuse in Montana families. One of these prevention strategies that the Committee wishes to endorse is the development of parent support groups.

In 1993, the Montana Legislature passed the Family Policy Act, codified as Title 41, chapter 7, part 1, MCA and on September 26, 1997, the Joint Oversight Committee on Children and Families adopted a mission statement that pledged the Committee's support for and adherence to the letter and spirit of the Montana Family Policy Act. Section 41-7-102(2)(a)(I) declares that the state shall promote establishment of programs that support families "by providing a community network that offers a range of family support services, activities, and programs designed to promote family well-being, with services that include prenatal care, parenting education, parent aides, and visiting nurses." This precisely describes the concept of a parent support group.

Child abuse and neglect is a scourge on society that threatens the stability of families and the future of children. Studies have shown that children who are abused or neglected are 67 times more likely to be arrested as juveniles, and Montana can ill afford significant jail and prison population increases. The

Committee on Children and Families recognizes the value of prevention in stemming the incidence of behaviors that inflict harm on Montana's children, families, and society and the most effective prevention programs are those established and operated at the community level.

Local parent support groups provide parents with a forum to share their problems and frustrations, while learning from professionals about child development and cultivating positive parenting skills. These groups are cost effective and constructive because parents lead the meetings, groups are facilitated by volunteers, and the community provides child care and other assistance.

The State of Montana receives funding through the new federal Child Abuse Prevention and Treatment Act (CAPTA) to improve its child protective system. The federal government has identified 9 priority areas in which states should apply CAPTA funding; one of which involves "developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level."

Given the Committee's pledge to adhere to the letter and spirit of the Family Policy Act and the fact that developing community-based parenting programs is one of the federal priorities for CAPTA money, the Joint Oversight Committee on Children and Families urges the Department of Public Health and Human Services to dedicate a portion of CAPTA money received toward developing and maintaining parent-led, voluntary, community-based, professionally-facilitated parent support groups as core components of the state's family resource and support programs.

APPENDIX I

**** Bill No. ****

Introduced By **********

By Request of the **********

A Bill for an Act entitled: "An Act allowing the department of public health and human services to issue day-care licenses and registration certificates that remain in effect for up to 3 years; and amending section 52-2-721, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 52-2-721, MCA, is amended to read:

"**52-2-721. License required -- registration required -- term of license or registration certificate -- no fee charged.**

(1) ~~No~~ A person, group of persons, or corporation ~~shall~~ may not:

(a) establish or maintain a day-care center for children unless licensed to do so by the department;

(b) operate a family day-care home or group day-care home without first procuring a family day-care or group day-care registration certificate from the department.

(2) The license and registration certificate ~~shall set forth~~ must contain the ages and numbers of children for whom day care may be provided.

(3) The applicant's own children must be included in the manner provided for in department regulations in the total number

of children to be cared for under the license or registration certificate.

(4) ~~Licenses or registration certificates shall be issued for periods not to exceed 1 year.~~ The department:

(a) may issue licenses or registration certificates that are in effect for a period not to exceed 3 years:and

(b) may not charge a fee to issue a license or registration certificate."

(5) A 3-year license may only be issued to a provider that has not received notice of any deficiencies on licensing criteria and implementing guidelines provided in department rule.

-END-

{Leanne Kurtz - C46
Researcher
Montana Legislative Services Division
(406)444-3064}

Joint Oversight Commit APPENDIX J
Children and Families

55th Montana Legislature

SENATE MEMBERS
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LEGAL RESEARCHER
LOIS O'CONNOR
SECRETARY

November 19, 1997

Senator J.D. Lynch
Subcommittee for the Revision and Maintenance of
Welfare and Child Support Enforcement
Room 138, State Capitol
Helena, MT 59620

Dear Senator Lynch:

The Joint Oversight Committee on Children and Families (JOCCF) is contacting you as senior Senator appointed to the Subcommittee for the Revision and Maintenance of Welfare and Child Support Enforcement (Subcommittee). Since its first meeting of the 1997-1998 interim and at each subsequent meeting, members of the Committee on Children and Families have expressed interest and concern regarding the exact mission of the Subcommittee to which you and your colleagues in the House and Senate have been appointed.

As the statutory body charged with overseeing Montana's human service programs, reviewing funding sources for those programs, and monitoring "implementation of state and national welfare reforms related to at-risk families, child care, teenage parents, and other human service concerns", JOCCF wishes to work closely with your Subcommittee in the months to come. Specifically, JOCCF strongly encourages the Subcommittee to approach its work on two levels.

- JOCCF understands that the impetus behind the Legislative Council's authorizing the Subcommittee in July was to assemble a body of legislators to devise an alternative state welfare plan in the event that the 1999 Legislature rejects federal money for welfare and child support programs. While this remains an important component of the Subcommittee's mission, JOCCF suggests the Subcommittee also address the status of Montana's current welfare reform program.

- The members of JOCCF urge the Subcommittee to conduct an **objective, thorough** study of Families Achieving Independence in Montana (FAIM) programs to determine whether or not the system is successful, what is happening to people leaving the welfare rolls, and where there may be gaps in service. In addition to the study of FAIM, JOCCF encourages examination of other states' welfare reform programs, specifically Wyoming and Wisconsin; Wisconsin for its numbers of Native Americans, Wyoming for its rural

character, and both for their having reported early success in their welfare reform initiatives. JOCCF believes it is critical that this comparative state study and an assessment of the successes and failures of FAIM be completed before the 1999 Legislative Session and that the Subcommittee is the appropriate body to commission such a review.

The Committee on Children and Families anticipates regular, comprehensive updates from Connie Erickson, the Subcommittee's Legislative Branch staff and has designated Representative Soft as the legislative liaison between the two committees.

Members of JOCCF believe that only through the above two-track approach to this study will legislators in the 1999 Session have the data they need to make informed, responsible decisions concerning the future of Montana's welfare programs.

Sincerely,

Loren Soft, by tk

Representative Loren Soft
Chair, Joint Oversight Committee on Children and Families

c. Representative John Mercer, Speaker of the House
Senator Gary Aklestad, President of the Senate
Laurie Ekanger, Director, DPHHS

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APPENDIX K

_____ BILL I

INTRODUCED BY _____

BY REQUEST OF THE JOINT OVERSIGHT COMMITTEE ON CHILDREN AND FAMILIES

A BILL FOR AN ACT ENTITLED: "AN ACT REPLACING THE UNIFORM CHILD CUSTODY JURISDICTION ACT WITH THE UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT; AMENDING SECTIONS 40-1-105, 40-4-103, 40-7-101, 40-7-103, 40-7-105, 40-7-106, 40-7-107, 40-7-108, 40-7-109, 40-7-110, 40-7-112, 40-7-119, AND 40-7-125, MCA; AND REPEALING SECTIONS 40-7-102, 40-7-104, 40-7-111, 40-7-113, 40-7-114, 40-7-115, 40-7-116, 40-7-117, 40-7-118, 40-7-120, 40-7-121, 40-7-122, 40-7-123, AND 40-7-124, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-1-105, MCA, is amended to read:

"**40-1-105. Application of ~~the~~ Montana Rules of Civil Procedure.** (1) Except for proceedings under the Uniform Child Custody Jurisdiction and Enforcement Act, the Montana Rules of Civil Procedure apply to all proceedings under this chapter, except as otherwise provided in this chapter.

(2) A proceeding for declaration of invalidity of marriage must be entitled, "In re the Marriage of..... and.....". A parenting or support proceeding must be entitled, "In re the (parenting) (support) of.....".

(3) The initial pleading in all proceedings under this chapter must be denominated a petition. A responsive pleading must be denominated a response. Other pleadings, and all pleadings in other matters under this chapter, must be denominated as provided in the Montana Rules of Civil Procedure.

(4) In this chapter, "decree" includes "judgment"."

Section 2. Section 40-4-103, MCA, is amended to read:

"**40-4-103. Application of ~~the~~ Montana Rules of Civil Procedure.** (1) Except for proceedings ~~coming~~ under the Uniform Child Custody Jurisdiction and Enforcement Act, the Montana Rules of Civil Procedure apply to all proceedings under this chapter, except as otherwise provided in this chapter.

(2) A proceeding for dissolution of marriage or legal separation must be entitled, "In re the

Marriage of..... and.....". A parenting or support proceeding must be entitled, "In re the (parenting) (support) of.....".

(3) The initial pleading in all proceedings under this chapter must be denominated a petition. A responsive pleading must be denominated a response. Other pleadings, and all pleadings in other matters under this chapter, must be denominated as provided in the Montana Rules of Civil Procedure.

(4) In this chapter, "decree" includes "judgment".

(5) A decree of dissolution or of legal separation, if made, may not be awarded to one of the parties but must provide that it affects the status previously existing between the parties in the manner decreed."

Section 3. Section 40-7-101, MCA, is amended to read:

"**40-7-101. Short title.** This chapter may be cited as the "Uniform Child Custody Jurisdiction and Enforcement Act"."

Section 4. Section 40-7-103, MCA, is amended to read:

"**40-7-103. Definitions.** As used in this chapter, the following definitions apply:

~~(1) "Contestant" means a person, including a parent, who claims a right to custody or visitation rights with respect to a child.~~

~~(2) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights. It does not include a decision relating to child support or any other monetary obligation of any person.~~

~~(3) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for divorce or separation, and includes issues of custody in adoption proceedings. A "custody proceeding" is not a proceeding pursuant to Title 41, chapter 3 or 5.~~

~~(4) "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding and includes an initial decree and a modification decree.~~

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision.

(2) "Child" means an individual who has not attained 18 years of age.

(3) (a) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes

a permanent, a temporary, an initial, and a modification order.

(b) The term does not include an order relating to child support or other monetary obligation of an individual.

(4) (a) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear.

(b) The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under [sections 25 through 41].

(5) "Commencement" means the filing of the first pleading in a proceeding.

(6) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.

~~(5)~~(7) "Home state" means the state in which ~~the~~ a child~~, immediately preceding the time involved,~~ lived with ~~his parents,~~ a parent~~,~~ or a person acting as parent~~,~~ for at least 6 consecutive months immediately before the commencement of a child custody proceeding. ~~and in~~ In the case of a child less than 6 months ~~old~~ of age, the term means the state in which the child lived from birth with any of the persons mentioned. ~~Periods~~ A period of temporary absence of any of the ~~named~~ mentioned persons ~~are counted as~~ is part of the ~~6 month or other~~ period.

~~(6)~~(8) ~~"Initial decree"~~ "Initial determination" means the first ~~custody decree~~ child custody determination concerning a particular child.

(9) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this chapter.

(10) "Issuing state" means the state in which a child custody determination is made.

~~(7)~~(11) "Modification ~~decree~~" means a ~~custody decree which modifies or~~ child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, ~~a prior decree,~~ whether or not it is made by the court ~~which rendered the prior decree or by another court~~ that made the previous determination.

(12) "Person" includes a government, a governmental subdivision, an agency, an instrumentality, or any other legal or commercial entity.

(13) "Person acting as a parent" means a person, other than a parent, who:

(a) has physical custody of the child or has had physical custody for a period of 6 consecutive months, including any temporary absence, within 1 year immediately before the commencement of a child custody proceeding; and

(b) has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

~~(8)~~(14) "Physical custody" means ~~actual possession and control~~ the physical care and supervision of a child.

~~(9) "Person acting as parent" means a person other than a parent who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.~~

~~(10)~~(15) "State" means ~~any~~ a state of the United States, ~~territory, or possession of the United States, the Commonwealth of Puerto Rico, and~~ the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) "Tribe" means an Indian tribe or band or Alaskan Native village that is recognized by federal law or formally acknowledged by a state.

(17) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child."

Section 5. Section 40-7-105, MCA, is amended to read:

"40-7-105. Notice ~~and~~ -- opportunity to be heard -- joinder. (1) Before ~~making a decree~~ a child custody determination is made under this chapter, ~~reasonable~~ notice and opportunity to be heard ~~shall~~ in accordance with the standards of 40-7-106 must be given to ~~the contestants~~ all persons entitled to notice under the law of this state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. ~~If any of these persons are outside this state, notice and opportunity to be heard shall be given pursuant to 40-7-106.~~

(2) This chapter does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(3) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this chapter are governed by the law of this state as in child custody proceedings between residents of this state."

Section 6. Section 40-7-106, MCA, is amended to read:

"40-7-106. Notice to persons outside ~~this~~ state ~~-- submission to jurisdiction~~. (1) Notice required for the exercise of jurisdiction ~~over~~ when a person is outside this state ~~shall~~ may be given in a manner ~~reasonably calculated to give actual notice and may be:~~

~~(a) by personal delivery outside this state in the manner prescribed for service of process within this state;~~

~~(b) in the manner~~ prescribed by the law of this state for the service of process or by the law of the ~~place~~ state in which the service is made. ~~for service of process in that place in an action in any of its courts of general jurisdiction;~~

~~(c) by any form of mail addressed to the person to be served and requesting a receipt; or~~

~~(d) as directed by the court, including~~ Notice must be given in a manner reasonably calculated to give actual notice but may be by publication, if other means ~~of notification~~ are ineffective.

(2) ~~Notice under this section shall be served, mailed, or delivered or last published at least 10 days before any hearing in this state.~~

~~(3)~~ Proof of service ~~outside this state~~ may be made ~~by affidavit of the individual who made the service or~~ in the manner prescribed by the law of this state~~, the order pursuant to which the service is made,~~ or by the law of the ~~place~~ state in which the service is made. ~~If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.~~

~~(4)~~(3) Notice is not required ~~if~~ for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court."

Section 7. Section 40-7-107, MCA, is amended to read:

"40-7-107. Simultaneous proceedings ~~in other states~~. (1) ~~A~~ Except as otherwise provided in [section 24], a court of this state may not exercise its jurisdiction under ~~this chapter~~ 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 23] if at the time of ~~filing the petition~~ commencement of the proceeding a proceeding concerning the custody of the child ~~was pending~~ had been previously commenced in a court of another state ~~exercising~~ having jurisdiction substantially in conformity with this chapter unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more ~~appropriate~~ convenient forum ~~or for other reasons~~ under 40-7-108.

(2) ~~Before~~ Except as otherwise provided in [section 24], a court of this state, before hearing ~~the petition in a custody~~ a child custody proceeding, ~~the court~~ shall examine the ~~pleadings~~ court documents and other information supplied by the parties ~~under 40-7-110 and shall consult the child custody registry established under 40-7-117 concerning the pendency of proceedings with respect to the child in other states~~ pursuant to 40-7-110. If the court ~~has reason to believe that proceedings may be pending~~ determines that a child custody proceeding was previously commenced in a court in another state having jurisdiction substantially in accordance with this chapter, ~~it~~ the court of this state shall ~~direct an inquiry to the state court administrator or other appropriate official of the other state.~~

~~(3) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction, it shall~~ stay ~~the~~ its proceeding and communicate with the court ~~in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with 40-7-120 through 40-7-123. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state, it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction, it shall likewise inform the other court to the end that the issues may be litigated in the~~ of the other state. If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(3) In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

(a) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(b) enjoin the parties from continuing with the proceeding for enforcement; or

(c) proceed with the modification under conditions that it considers appropriate."

Section 8. Section 40-7-108, MCA, is amended to read:

"**40-7-108. Inconvenient forum.** (1) A court ~~which~~ of this state that has jurisdiction under this chapter to make ~~an initial or modification decree~~ a child custody determination may decline to exercise

its jurisdiction at any time ~~before making a decree~~ if it ~~finds~~ determines that it is an inconvenient forum ~~to make a custody determination~~ under the circumstances ~~of the case~~ and that a court of another state is a more appropriate forum. The issue

~~(2) A finding~~ of inconvenient forum may be ~~made~~ raised upon the court's own motion, request of another court, or ~~upon~~ motion of a party ~~or a guardian ad litem or other representative of the child~~.

~~(3)~~(2) ~~In~~ Before determining ~~if~~ whether it is an inconvenient forum, ~~the~~ a court of this state shall consider ~~if~~ whether it is ~~in the interest of the child~~ appropriate that a court of another state ~~assume~~ exercise jurisdiction. For this purpose, ~~it may take into account the following~~ the court shall allow the parties to submit information and shall consider all relevant factors, ~~among others~~ including:

~~(a) if another state is or recently was the child's home state;~~

~~(b) if another state has a closer connection with the child and his family or with the child and one or more of the contestants;~~

~~(c) if substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another state;~~

~~(d) if the parties have agreed on another forum which is no less appropriate; and~~

~~(e) if the exercise of jurisdiction by a court of this state would contravene any of the purposes stated in 40-7-102.~~

(a) whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(b) the length of time that the child has resided outside this state;

(c) the distance between the court in this state and the court in the state that would assume jurisdiction;

(d) the relative financial circumstances of the parties;

(e) any agreement of the parties as to which state should assume jurisdiction;

(f) the nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

(g) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

(h) the familiarity of the court of each state with the facts and issues in the pending litigation.

~~(4) Before determining whether to decline or retain jurisdiction, the court may communicate with~~

~~a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.~~

~~(5)~~(3) If ~~the~~ a court ~~finds~~ of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, ~~it may dismiss the proceedings or~~ it ~~may~~ shall stay the proceedings upon condition that a ~~custody~~ child custody proceeding be promptly commenced in another ~~named~~ designated state ~~or upon~~ and may impose any other ~~conditions which may be~~ condition that the court considers just and proper~~, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum~~.

~~(6)~~(4) ~~The~~ A court of this state may decline to exercise its jurisdiction under this chapter if a ~~custody~~ child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

~~(7) If it appears to the court that it is clearly an inappropriate forum, it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.~~

~~(8) Upon dismissal or stay of proceedings under this section the court shall inform the court found to be the more appropriate forum of this fact or, if the court which would have jurisdiction in the other state is not certainly known, transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.~~

~~(9) Any communication received from another state informing this state of a finding of inconvenient forum because a court of this state is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction, the court of this state shall inform the original court of this fact.~~"

Section 9. Section 40-7-109, MCA, is amended to read:

"40-7-109. Jurisdiction declined by reason of conduct. (1) ~~If the petitioner for an initial decree has wrongfully taken the child from another state or~~ Except as otherwise provided in [section 22], if a court of this state has jurisdiction under this chapter because a person invoking the jurisdiction has engaged in ~~similar reprehensible~~ unjustifiable conduct, the court ~~may~~ shall decline to exercise jurisdiction

~~if this is just and proper under the circumstances~~ unless:

(a) the parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(b) a court of the state otherwise having jurisdiction under [sections 19 through 21] determines that this state is a more appropriate forum under 40-7-108; or

(c) no other state would have jurisdiction under [sections 21 through 23].

~~(2) Unless required in the interest of the child, the court may not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state, the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.~~

(2) If a court of this state declines to exercise its jurisdiction pursuant to subsection (1), it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the wrongful conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under [sections 21 through 23].

(3) ~~In appropriate cases~~ If a court ~~dismissing a petition under this section may~~ dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (1), it shall charge the ~~petitioner~~ party invoking the jurisdiction of the court with necessary ~~travel~~ and ~~other~~ reasonable expenses, including ~~attorneys' fees, incurred by other parties or their~~ costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the award would be clearly inappropriate. The court may not assess fees, costs, or expenses against this state except as otherwise provided by law other than this chapter."

Section 10. Section 40-7-110, MCA, is amended to read:

"**40-7-110. Information ~~under oath~~ to be submitted to ~~the~~ court.** (1) ~~Each~~ In a child custody proceeding, each party, ~~in a custody proceeding~~ in ~~his~~ its first pleading or in an attached affidavit, ~~attached to that pleading~~ shall give information, if reasonably ascertainable, under oath as to the child's present address, the places where the child has lived ~~within~~ during the last 5 years, and the names and present addresses of the persons with whom the child has lived during that period. ~~In this~~ The pleading

or affidavit ~~each party shall further declare under oath~~ must state whether the party:

(a) ~~he~~ has participated, ~~(~~as a party~~,~~ or witness~~,~~ or in any other capacity~~)~~, in any other ~~litigation~~ proceeding concerning the custody of or visitation with the ~~same~~ child ~~in this or any other state~~ and, if so, identify the court, the case number of the proceeding, and the date of the child custody determination, if any;

(b) ~~he has information~~ knows of any ~~custody~~ proceeding ~~concerning the child pending in a court of this or any other state~~ that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions, and, if so, identify the court, the case number, and the nature of the proceeding; and

(c) ~~he~~ knows the name and address of any person who is not a party to the ~~proceedings~~ proceeding who has physical custody of the child or who claims ~~to have~~ rights of legal custody or physical custody of, or visitation ~~rights~~ with ~~respect to~~, the child and, if so, the party shall provide the names and addresses of those persons.

(2) If the information required by subsection (1) is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

~~(2)~~(3) If the declaration as to any of the ~~above~~ items described in subsections (1)(a) through (1)(c) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and ~~as to~~ other matters pertinent to the court's jurisdiction and the disposition of the case.

~~(3)~~(4) Each party has a continuing duty to inform the court of any ~~custody~~ proceeding ~~concerning the child~~ in this or any other state ~~of which he obtained information during this~~ that could affect the current proceeding.

(5) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be put at risk by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice."

Section 11. Section 40-7-112, MCA, is amended to read:

"40-7-112. Appearance of parties and child. (1) ~~The~~ A court of this state may order ~~any~~ a party

to ~~the~~ a child custody proceeding who is in this state to appear ~~personally~~ before the court personally with or without the child. ~~If that party~~ The court may order any person who is in this state and who has physical custody or control of the child~~, the court may order that he~~ to appear ~~personally~~ physically with the child.

(2) If a party to ~~the~~ a child custody proceeding whose presence is desired by the court is outside this state ~~with or without the child~~, the court may order that ~~the~~ a notice given ~~under~~ pursuant to 40-7-106 include a statement directing ~~that~~ the party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to ~~that~~ the party.

(3) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

~~(3)~~(4) If a party to ~~the~~ a child custody proceeding who is outside this state is directed to appear under subsection (2) or desires to appear personally before the court with or without the child, the court may require another party to pay ~~to the clerk of the court travel~~ reasonable and ~~other~~ necessary travel and other expenses of the party so appearing and of the child~~, if this is just and proper under the circumstances~~."

Section 12. Section 40-7-119, MCA, is amended to read:

"**40-7-119. Taking testimony in another state.** (1) In addition to other ~~procedural devices~~ procedures available to a party, ~~any~~ a party to ~~the~~ a child custody proceeding ~~or a guardian ad litem or other representative of the child~~ may ~~adduce~~ offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or ~~otherwise,~~ other means allowable in this state for testimony taken in another state. The court on its own motion may ~~direct~~ order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony ~~shall be~~ is taken.

(2) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(3) Documentary evidence that is transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an

objection based on the means of transmission."

Section 13. Section 40-7-125, MCA, is amended to read:

"40-7-125. Priority. ~~A custody proceeding which raises~~ If a question of existence or exercise of jurisdiction under this chapter ~~shall~~ is raised in a child custody proceeding, the question, upon request of a party, must be given ~~calendar~~ priority on the calendar and handled expeditiously."

NEW SECTION. Section 14. Proceedings governed by other law. This chapter does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

NEW SECTION. Section 15. Application to Indian tribes. (1) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. 1901, et seq., is not subject to this chapter to the extent that it is governed by the Indian Child Welfare Act.

(2) A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying 40-7-101, 40-7-103, 40-7-105 through 40-7-110, 40-7-112, 40-7-119, 40-7-125, and [sections 14 through 24].

(3) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under [sections 25 through 41].

NEW SECTION. Section 16. International application. (1) A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying 40-7-101, 40-7-103, 40-7-105 through 40-7-110, 40-7-112, 40-7-119, 40-7-125, and [sections 14 through 24].

(2) A child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under [sections 25 through 41].

(3) A court of this state need not apply this chapter if the child custody law of a foreign country violates fundamental principles of human rights.

NEW SECTION. **Section 17. Binding force of child custody determination.** A child custody determination made by a court of this state that had jurisdiction under this chapter binds all persons who have been served in accordance with the laws of this state or notified in accordance with 40-7-106 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent that the determination is modified.

NEW SECTION. **Section 18. Appearance and limited immunity.** (1) A party to a child custody proceeding who is not subject to personal jurisdiction in this state and who is a responding party under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 24], a party in a proceeding to modify a child custody determination under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 24], or a petitioner in a proceeding to enforce or register a child custody determination under [sections 25 through 41] may appear and participate in the proceeding without submitting to personal jurisdiction over the party for another proceeding or purpose.

(2) A party is not subject to personal jurisdiction in this state solely by being physically present for the purpose of participating in a proceeding under this chapter. If a party is subject to personal jurisdiction in this state on a basis other than physical presence, the party may be served with process in this state. If a party present in this state is subject to the jurisdiction of another state, service of process allowable under the laws of that state may be accomplished in this state.

(3) The immunity granted by this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in this state.

NEW SECTION. **Section 19. Communication between courts.** (1) A court of this state may communicate with a court in another state concerning a proceeding arising under this chapter.

(2) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(3) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(4) Except as otherwise provided in subsection (3), a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

(5) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. A record includes notes or transcripts of a court reporter who listened to a conference call between the courts, an electronic recording of a telephone call, a memorandum or an electronic record of the communication between the courts, or a memorandum or an electronic record made by a court after the communication.

NEW SECTION. **Section 20. Cooperation between courts -- preservation of records.** (1) A court of this state may request the appropriate court of another state to:

(a) hold an evidentiary hearing;

(b) order a person to produce or give evidence pursuant to procedures of that state;

(c) order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

(d) forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and

(e) order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(2) Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection (1).

(3) Travel and other necessary and reasonable expenses incurred under subsections (1) and (2) may be assessed against the parties according to the law of this state.

(4) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

NEW SECTION. **Section 21. Initial child custody jurisdiction.** (1) Except as otherwise provided in [section 24], a court of this state has jurisdiction to make an initial child custody determination only

if:

(a) this state is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within 6 months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state;

(b) a court of another state does not have jurisdiction under subsection (1)(a), or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under 40-7-108 or 40-7-109, and:

(i) the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence; and

(ii) substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships;

(c) all courts having jurisdiction under subsection (1)(a) or (1)(b) have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under 40-7-108 or 40-7-109; or

(d) no state would have jurisdiction under subsection (1)(a), (1)(b), or (1)(c).

(2) Subsection (1) is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

(3) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

NEW SECTION. **Section 22. Exclusive, continuing jurisdiction.** (1) Except as otherwise provided in [section 24], a court of this state that has made a child custody determination consistent with [section 21 or 23] has exclusive, continuing jurisdiction over the determination until:

(a) a court of this state determines that the child, the child's parents, and any person acting as a parent do not have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or

(b) a court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

(2) A court of this state that has exclusive, continuing jurisdiction under this section may decline to exercise jurisdiction if the court determines that it is an inconvenient forum under 40-7-108.

(3) A court of this state that has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under [section 21].

NEW SECTION. **Section 23. Jurisdiction to modify determination.** Except as otherwise provided in [section 24], a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under [section 21(1)(a) or (1)(b)] and:

(1) the court of the other state determines it no longer has exclusive, continuing jurisdiction under [section 22] or that a court of this state would be a more convenient forum under 40-7-108; or

(2) a court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

NEW SECTION. **Section 24. Temporary emergency jurisdiction.** (1) A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(2) If there is no previous child custody determination that is entitled to be enforced under this chapter and a child custody proceeding has not been commenced in a court of a state having jurisdiction under [sections 21 through 23], a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under [sections 21 through 23]. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under [sections 21 through 23], a child custody determination made under this section becomes a final determination if it so provides and this state becomes the home state of the child.

(3) If there is a previous child custody determination that is entitled to be enforced under this chapter or a child custody proceeding has been commenced in a court of a state having jurisdiction under [sections 21 through 23], any order issued by a court of this state under this section must specify in the order a period of time that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under [sections 21 through 23]. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or until the

period expires.

(4) A court of this state that has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under [sections 21 through 23], shall immediately communicate with the other court. A court of this state that is exercising jurisdiction pursuant to [sections 21 through 23], upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of another state under a statute similar to this section, shall immediately communicate with the court of that state. The purpose of the communication is to resolve the emergency, to protect the safety of the parties and the child, and to determine a period for the duration of the temporary order.

NEW SECTION. **Section 25. Definitions.** In [sections 25 through 41]:

(1) "Petitioner" means a person who seeks enforcement of an order for the return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

NEW SECTION. **Section 26. Enforcement under Hague Convention.** Under [sections 25 through 41], a court of this state may enforce an order for the return of the child that was made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.'

NEW SECTION. **Section 27. Duty to enforce.** (1) A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and the determination has not been modified in accordance with this chapter.

(2) A court of this state may utilize any remedy available under other law of this state to enforce

a child custody determination made by a court of another state. The procedure provided by [sections 25 through 41] does not affect the availability of other remedies to enforce a child custody determination.

NEW SECTION. **Section 28. Temporary visitation.** (1) A court of this state that does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(a) a visitation schedule made by a court of another state; or

(b) the visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(2) If a court of this state makes an order under subsection (1)(b), it shall specify in the order a period of time that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 24]. The order remains in effect until an order is obtained from the other court or the period expires.

NEW SECTION. **Section 29. Registration of child custody determination.** (1) A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to district court in this state:

(a) a letter or other document requesting registration;

(b) two copies, including one certified copy, of the determination sought to be registered and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration, the order has not been modified; and

(c) except as otherwise provided in 40-7-110, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(2) On receipt of the documents required by subsection (1), the registering court shall:

(a) cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(b) serve notice upon the persons named pursuant to subsection (1)(c) and provide them with an opportunity to contest the registration in accordance with this section.

(3) The notice required by subsection (2)(b) must state that:

(a) a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;

(b) a hearing to contest the validity of the registered determination must be requested within 20 days after service of notice; and

(c) failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(4) A person seeking to contest the validity of a registered order shall request a hearing within 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(a) the issuing court did not have jurisdiction under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 24];

(b) the child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 24]; or

(c) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of 40-7-106, in the proceedings before the court that issued the order for which registration is sought.

(5) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

(6) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

NEW SECTION. **Section 30. Enforcement of registered determination.** (1) A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.

(2) A court of this state shall recognize and enforce, but may not modify, except in accordance with 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 24], a registered child

custody determination of a court of another state.

NEW SECTION. **Section 31. Simultaneous proceedings.** If a proceeding for enforcement under [sections 25 through 41] is commenced in a court of this state and the court determines that a proceeding to modify the determination is commenced in a court of another state having jurisdiction to modify the determination under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 24], the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

NEW SECTION. **Section 32. Expedited enforcement of child custody determination.** (1) A petition under [sections 25 through 41] must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(2) A petition for enforcement of a child custody determination must state:

(a) whether the court that issued the determination identified the jurisdictional basis that it relied upon in exercising jurisdiction and, if so, what the basis was;

(b) whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this chapter or federal law and, if so, identify the court, the case number of the proceeding, and the action taken;

(c) whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions, and if so, identify the court, the case number, and the nature of the proceeding;

(d) the present physical address of the child and the respondent, if known;

(e) whether relief in addition to the immediate physical custody of the child and attorney fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and

(f) if the child custody determination has been registered and confirmed under [section 29], the date and place of registration.

(3) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety

of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(4) The order must state the time and place of the hearing and must advise the respondent that at the hearing, the court will order the delivery of the child and the payment of fees, costs, and expenses under [section 36] and may set an additional hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(a) the child custody determination has not been registered and confirmed under [section 29] and that:

(i) the issuing court did not have jurisdiction under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 24];

(ii) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 24] or federal law; or

(iii) the respondent was entitled to notice, but notice was not given in accordance with the standards of 40-7-106, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) the child custody determination for which enforcement is sought was registered and confirmed under [section 29], but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 24] or federal law.

NEW SECTION. **Section 33. Service of petition and order.** Except as otherwise provided in [section 35], the petition and order must be served, by any method authorized by the law of this state, upon the respondent and any person who has physical custody of the child.

NEW SECTION. **Section 34. Hearing and order.** (1) Unless the court issues a temporary emergency order pursuant to [section 24], upon a finding that a petitioner is entitled to the physical custody of the child immediately, the court shall order the child delivered to the petitioner unless the respondent establishes that:

(a) the child custody determination has not been registered and confirmed under [section 29] and that:

(i) the issuing court did not have jurisdiction under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 24];

(ii) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 24] or federal law; or

(iii) the respondent was entitled to notice, but notice was not given in accordance with the standards of 40-7-106, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) the child custody determination for which enforcement is sought was registered and confirmed under [section 29], but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and [sections 21 through 24] or federal law.

(2) The court shall award the fees, costs, and expenses authorized under [section 36] and may grant additional relief, including a request for the assistance of law enforcement officials, and may set a further hearing to determine whether additional relief is appropriate.

(3) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(4) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under [sections 25 through 41].

NEW SECTION. **Section 35. Warrant to take physical custody of child.** (1) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is imminently likely to suffer serious physical harm or to be removed from this state.

(2) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or to be removed from this state, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the

warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by [section 32(2)].

(3) A warrant to take physical custody of a child must:

(a) recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

(b) direct law enforcement officers to take physical custody of the child immediately; and

(c) provide for the placement of the child, pending final relief.

(4) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(5) A warrant to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(6) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

NEW SECTION. **Section 36. Costs, fees, and expenses.** (1) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(2) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this chapter.

NEW SECTION. **Section 37. Recognition and enforcement.** A court of this state shall accord full faith and credit to an order issued by another state and consistent with this chapter that enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and

[sections 21 through 24].

NEW SECTION. **Section 38. Appeals.** An appeal may be taken from a final order in a proceeding under [sections 25 through 41]. Unless the court enters a temporary emergency order under [section 24], the enforcing court may not stay an order enforcing a child custody determination pending appeal.

NEW SECTION. **Section 39. Role of prosecutor.** (1) In a case arising under this chapter or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor may take any lawful action, including resorting to a proceeding under [sections 25 through 41] or any other available civil proceeding, to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

(a) an existing child custody determination;

(b) a request to do so from a court in a pending child custody proceeding;

(c) a reasonable belief that a criminal statute has been violated; or

(d) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(2) A prosecutor acts on behalf of the court and may not represent any party to a child custody determination.

NEW SECTION. **Section 40. Role of law enforcement.** At the request of a prosecutor acting under [section 39], a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and to assist a prosecutor with responsibilities under [section 39].

NEW SECTION. **Section 41. Costs and expenses.** If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor and law enforcement officers under [section 39 or 40].

NEW SECTION. **Section 42. Application and construction.** In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. **Section 43. Repealer.** Sections 40-7-102, 40-7-104, 40-7-111, 40-7-113, 40-7-114, 40-7-115, 40-7-116, 40-7-117, 40-7-118, 40-7-120, 40-7-121, 40-7-122, 40-7-123, and 40-7-124, MCA, are repealed.

NEW SECTION. **Section 44. Transitional provision.** A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination that was commenced before [the effective date of this act] is governed by the law in effect at the time the motion or other request was made.

NEW SECTION. **Section 45. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

NEW SECTION. **Section 46. Codification instruction.** [Sections 14 through 41] are intended to be codified as an integral part of Title 40, chapter 7, and the provisions of Title 40, chapter 7, apply to [sections 14 through 41].

NEW SECTION. **Section 47. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from that invalid applications.

- END -

Joint Oversight Committ Children and Families

55th Montana Legislature

APPENDIX L

SENATE MEMBERS
VIVIAN M. BROOKE
DOROTHY ECK
SHARON ESTRADA
WM. E. "BILL" GLASER

HOUSE MEMBERS
BOB LAWSON
LOREN L. SOFT
CAROLYN M. SQUIRES
BILL WHITEHEAD

COMMITTEE STAFF
LEANNE KURTZ
RESEARCHER
DOUG STERNBERG
LEGAL RESEARCHER
LOIS O'CONNOR
SECRETARY

February 16, 1998

Governor Marc Racicot
State Capitol, Room 204
Helena, MT 59620

Dear Governor Racicot:

The Joint Oversight Committee on Children and Families is a professionally and politically diverse group that has met several times over the last five months to explore the vast universe of child and family policy issues in the state of Montana. Through presentations and discussions throughout the interim, the Committee has been educating its own members and plans this fall to produce a guide to assist the entire legislature in understanding, from a legislative perspective, child and family-related issues they may be asked to discuss and vote on during the Session. As you know, these matters touch all Montanans "from cradle to grave". While many topics deserve and are receiving the attention of the Committee, the proposed Children's Health Insurance Program (CHIP) state plan is currently occupying center stage, and the Committee has made some recommendations that members would like to bring before you.

Through Committee member participation in the CHIP Advisory Council and regular reports from the Department of Public Health and Human Services, the Committee on Children and Families has devoted considerable time and maintained an acute interest in the specifics of the plan and the legislative package that DPHHS will present to the 56th Legislature. As the interim body statutorily charged with reviewing "federal, state, local, and private funds available to state and local jurisdictions for programs and services for children and families..." (5-22-102, MCA), the Committee has been an appropriate legislative forum for discussion of CHIP.

Prior to adjournment of its last regular meeting in January, the Committee expressed the sentiment that CHIP warranted its undivided attention and scheduled a meeting for February 11 to hear and discuss the specifics of DPHHS' plan. After being briefed on the CHIP proposal that has taken shape, the Committee focused its deliberations on the 5 major subjects listed below. In all but one vote, this bi-partisan Committee unanimously endorsed the recommendations that follow. The Committee respectfully requests that you consider these recommendations as you direct DPHHS in its efforts to design a children's health insurance program that efficiently

utilizes the federal dollars allotted the state while safeguarding the well-being of Montana's children.

Recommendations of the Joint Oversight Committee on Children and Families

Montana's Children's Health Insurance Program plan

Pilot Program
The Committee unanimously recommends that DPHHS initiate a CHIP pilot program as soon as possible immediately after approval of the state's plan by the Health Care Financing Administration.

Medicaid Expansion
The Committee unanimously recommends that an expansion of Medicaid not be included as part of the state's CHIP plan.

Benefit Package
The Committee unanimously recommends that, as a starting point (leaving open the possibility of adding more services as CHIP authorization progresses through the Legislature), the CHIP benefit package for the pilot and the full program include the following:

1. Inpatient and outpatient hospital services;
2. Physician's surgical and medical services;
3. Laboratory and x-ray services;
4. Well-baby and well-child services including age appropriate immunizations;
5. Prescription drugs;
6. Mental health and chemical dependency treatment services;
7. Vision services (excluding eyeglasses); and
8. Hearing services (excluding hearing aids).

Enrollment
The Committee unanimously recommends that CHIP be designed to serve children from ages 0-18 at 150% of the federal poverty level, starting with the youngest children first and continuing until the money is gone.

Participant Ownership (Cost-sharing)
The Committee recommends by a vote of 7 to 1 that DPHHS pursue ways for participants in CHIP to financially contribute to its operation at a level that will not preclude low-income families from enrolling in the program.

The Committee on Children and Families also wishes to express its continued support for and dedication to the Caring Program for Children. The evidence is clear that the Caring Program has served Montana's needy children exceptionally well and will continue to do so as funding is

available. The Committee appreciates your demonstrated commitment to the Caring Program and has urged the Department of Public Health and Human Services to work closely with the Caring Program to ensure that **all** children in need of medical care and health insurance receive those services.

The Committee on Children and Families carefully and thoughtfully considered each of its recommendations, keeping at the forefront of the discussion the ultimate goal of facilitating legislative authorization of CHIP and making the dollars stretch as far as possible while serving as many Montana kids as possible as soon as possible. The Committee hopes that its efforts will contribute to the design of an immensely successful state Children's Health Insurance Program, paving the way for the kind of quality health care all of Montana's children need and deserve.

Respectfully,

Representative Loren Soft
Chairman, Joint Oversight Committee on Children and Families

c. Laurie Ekanger, Director, Department of Public Health and Human Services
Senator Chuck Swysgood
Representative Tom Zook

Joint Oversight Committe
Children and Families

55th Montana Legislature

APPENDIX M

SENATE MEMBERS
VIVIAN M. BROOKE
DOROTHY ECK
SHARON ESTRADA
WM. E. "BILL" GLASER

HOUSE MEMBERS
BOB LAWSON
LOREN L. SOFT
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BILL WHITEHEAD

COMMITTEE STAFF
LEANNE KURTZ
RESEARCHER
DOUG STERNBERG
LEGAL RESEARCHER
LOIS O'CONNOR
SECRETARY

September 4, 1998

Laurie Ekanger, Director
Department of Public Health and Human Services
111 N. Sanders
P.O. Box 4210
Helena, MT 59604-4210

Dear Laurie:

As a member of the Joint Oversight Committee on Children and Families (JOCCF), Representative Bill Whitehead has brought to the Committee's attention two letters requesting support for continued funneling of federal TANF block grant dollars to the Montana reservations for operation of welfare reform projects. Representative Whitehead presented these letters, from Spike Bighorn, Fort Peck Tribal Chairman, and Lonnie Reddog, Fort Peck Welfare Reform Coordinator, at the JOCCF's August 17 meeting.

JOCCF has spent the past year reviewing a number of programs relating to Montana's children and families, including substance abuse prevention, child abuse prevention, children's health insurance, unintended pregnancy, child support, and welfare reform. In many of the issues the committee has reviewed, two themes have persisted: the myriad ways in which federal welfare reform affects Montana's low income population; and the far-reaching, negative impacts of poverty on our society.

With the federal government providing block grants to states as a means of allowing state officials to decide where best to place its financial priorities, good stewardship of those dollars becomes of paramount importance, as does the necessary follow-through so that programs begun with federal dollars may continue. Earlier this interim, JOCCF was educated in the horrors of child abuse and the efforts to stem its perpetuation. In response, the Committee unanimously endorsed the continued funneling of federal block grant funds to child abuse prevention efforts. In much the same manner, and recognizing the unique barriers that Montana's Indian population must overcome to participate in assistance programs, JOCCF has voted unanimously to support continued funneling of federal TANF funds to reservations for the transitional welfare reform programs.

The 55th Legislature's approval of providing tribes with welfare reform transition dollars appears to have been money well-directed by the state of Montana, and with continued support, the tribes will be able to effectively assist their low-income citizens (who are also residents of the State of Montana) in becoming self-sufficient, productive members of society, the very intent of the federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA).

JOCCF believes that the responsible use of the federal TANF dollars includes directing a portion of the block grant to the tribes for their transitional programs. All Montanans will benefit from the healthy children and financial stability in families that the tribal welfare reform programs will be striving to cultivate.

Sincerely,

Loren L. Soft
Chair, Joint Oversight Committee on Children and Families

Joint Oversight Committee on Children and Families
Self-evaluation in compliance with Chapter 257, Laws of 1997 (Senate Bill No. 94)

August 25, 1997

P R O G R E S S

Goals for the 1997-98 interim	9/26/97 # 2	11/13-14/97 # 3	1/8/98 #4	2/11/98 # 5	4/17/98 # 6	6/22/98 # 7	8/17/98 #8	Outcomes/ Products (what? how?)	Was goal met?
Meet statutory requirements regarding teen pregnancy	Adopt study plan.	Intro to issues and background information.			Update on status of abstinence-only grant: what are all possible prevention strategies; what prevention strategies does committee want to endorse, if any?	Discuss abstinence-only vs. "Safer sex" education.		▸ An education on the issues surrounding teenage pregnancy. ▸ Information on prevention strategies. ▸ Information on abstinence-only grant program. ▸ JOCCF chair sits on abstinence education grant oversight committee.	Yes
Receive more information and decide whether to support funding for Kids Count Data Book	Adopt study plan.	Presentation by HMHB; decide whether to support - vote.	Received more information re. who uses book; Committee suggestions for book format; voted to support (with no $$ commitment) via letter to interested persons for fundraising activities; voted to encourage use of Internet (2 letters).		Final approval of letters.			▸ Letter of support for use by Healthy Mothers, Healthy Babies for fundraising. ▸ Letter to HMHB Board encouraging exploration of alternative ways to get Kids Count information to those who need it. ▸ JOCCF support for continueddevelopment of Book and data collected.	Yes

Goals for the 1997-98 interim	9/26/97 # 2	11/13-14/97 # 3	1/8/98 #4	2/11/98 # 5	4/17/98 # 6	6/22/98 # 7	8/17/98 #8	Outcomes/ Products (what? how?)	Was goal met?
Learn about HMHB fatherhood program - Committee awareness of program	Adopt study plan.	Presentation by HMHB to heighten awareness of program.						▸ Legislative awareness of the program - no other products requested.	Yes
Receive information on crisis care/child abuse prevention needs; decide on Committee support	Adopt study plan.	Presentation by Montana Council for Families; decide on Committee support - vote.	Reviewed material presented; reviewed bill drafts; voted to support, but to change resolutions to letters of support.		Final approval of letters.			▸ Letter to encourage continued use of federal block grant funds for crisis care services. ▸ Letter to encourage continued use of federal block grant funds for parent support group services.	Yes
Receive background/details on hearing screening for newborns; Committee awareness of Dr. Spence's efforts	Adopt study plan.	Background and details by Dr. Spence, DPHHS.						▸ Committee awareness of the problem and the program that has been initiated in several counties.	Yes
Learn in detail of ways Committee can address upcoming changes in demographics - Aging issues	Adopt study plan/brief presentation of the problems that changing demographics will present.				Decide whether to ask for more information.			▸ JOCCF determined that it would not follow up on this issue this interim, recognizing it will need serious attention by the legislature and perhaps a future interim committee.	No

Goals for the 1997-98 interim	9/26/97 # 2	11/13-14/97 # 3	1/8/98 #4	2/11/98 # 5	4/17/98 # 6	6/22/98 # 7	8/17/98 #8	Outcomes/ Products (what? how?)	Was goal met?
Receive details re. needs of Developmental Disabilities Division; decide on support	Adopt study plan.		Detailed presentation by the DD Division.		DD requests determined to be an integral part of DPHHS EPP and not to be segregated for JOCCF consideration.			▸ The presentations resulted in heightened JOCCF member awareness of the program and of the numbers on waiting lists across the state.	N/A - Formal Committee action determined to be unnecessary and inappropriate, since the item is just one part of DPHHS EPP proposal.
Receive details on 0-3 age needs	Adopt study plan.	CHIP; HMHB Kids Count Data Book; child abuse prevention info.; hraring screening for newborns.	CHIP; voted to support HMHB Kids Count Data Book; voted to support MT Council for Families' child abuse prevention efforts.	CHIP work session.	Approval of HMHB Kids Count letters; approval of child abuse prevention letters; CHIP; heard presentation on child care; agreed to request child care bills.	Review/approve child care bill draft	CHIP final update; HMHB grant presentation; revised child care bill; UCCJEA..	▸ Bill draft re. child care extended licensing. ▸ Participation in CHIP state plan development. ▸ Child abuse prevention letters. ▸ Kids Count Data Book letters of support ▸ Education in the need for hearing screening for newborns. ▸ General education in the special health needs of 0-3 year old children.	Yes
Learn of any needs the Committee might address in child care arena	Adopt study plan.				Review last interim Committee's work; Presentation on day care licensing.	Review/approve child care bill draft.	Review/approve revised extended licensing bill draft.	▸ Bill draft allowing extended licensing.	Yes
Examine liability and volunteerism	Adopt study plan.		Federal legislation adopted. Committee takes no further action.					NA	No

Goals for the 1997-98 interim	9/26/97 # 2	11/13-14/97 # 3	1/8/98 #4	2/11/98 # 5	4/17/98 # 6	6/22/98 # 7	8/17/98 #8	Outcomes/ Products (what? how?)	Was goal met?
Receive details re. MAHSC group home provider reimbursement; decide on whether to support rate increase	Adopt study plan.					Presentations by MAHSC and DPHHS; Committee informed that provider rate increases are part of DPHHS EPP proposal; Committee takes no formal action.		▸ JOCCF member awareness of the program, the increased demand for services, and the model rate matrix. ▸ JOCCF member awareness of this as a DPHHS EPP proposal.	Yes - no need for formal action since the rate increase has been included in DPHHS EPP proposal (see Disability Services item).
Produce Legislator's Guide	Adopt concept in study plan.	Vote on Committee support of presentations.	Vote on Committee support of presentations.	Decided on endorsement of CHIP/benefit package/other details of the state plan.	Legislation, letters, concept of legislator's guide presented.	Outline presented for Committee to accept/change.	Final discussion of guide's content and format.	▸ A useful final report in the form of a legislator's guide to child and family issues.	
Receive regular updates in appropriate areas of oversight									
ICC (Unified Budget, Governor's Summit)	ICC introduction; Unified Budget; Governor's Summit.	Unified Budget, Governor's Summit.	Members attend ICC orientation session; receive information on ICC's prevention database project.		Presentation of new unified budget prototype.	ICC activities update; discussion of new unified budget format.		▸ Updated regularly on ICC activities; participated in an ICC orientation; reviewed ICC unified budget prototype.	
Indian Affairs (IA)	Report on IA Committee study plan/activities.	Report on IA Committee study plan/activities.	Report on IA Committee activities.						

Goals for the 1997-98 interim	9/26/97 # 2	11/13-14/97 # 3	1/8/98 #4	2/11/98 # 5	4/17/98 # 6	6/22/98 # 7	8/17/98 #8	Outcomes/ Products (what? how?)	Was goal met?
Children's Health Insurance - CHIP (Participate in development of plan)	CHIP Advisory Council update.	CHIP update/discussion.	CHIP update/ discussion.	CHIP work session; development of state plan.	CHIP state plan update and discussion.	CHIP state plan update and discussion.	Final state plan update; progress of HCFA approval.	▸ JOCCF members gained extensive knowledge of CHIP and its possibilities and problems; extensive member participation in development of the state plan; JOCCF advice to DPHHS regarding the most "legislatively palatable" CHIP proposal.	
Mental Health Managed Care	MHAP update.	MHAP update.	MHAP update.		MHAP update.	MHAP update.	MHAP update and discussion.	▸ JOCCF kept up to date on MHAP developments. ▸ Enhanced member knowledge of managed mental health care and its problems.	
Corrections Oversight Committee activities		Committee update; juvenile sex offender treatment center.						▸ Informed of any relevant (juvenile-related) activities of the Correctional Standards Committee.	
Child Custody/Visitation		Visitation grant update.	Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) presentation.		Visitation grant update.		UCCJEA presentation and discussion.	▸ Kept apprised of the child custody /visitation grant ▸ Informed of UCCJEA. ▸ Submitted a bill draft request to implement UCCJEA in Montana.	
Subcommittee on Welfare and Child Support Enforcement (Subcommittee)	Subcommittee update.	Subcommittee update.	Subcommittee update; composed letter to Subcommittee suggesting a possible study direction.		Subcommittee update.	Subcommittee update/final recommendations.		▸ Wrote a letter to the Subcommittee on Welfare and Child Support Enforcement regarding JOCCF's position on what the welfare study should entail; followed the activities of the Subcommittee; received regular reports.	
General DPHHS Oversight	CHIP	Human Services Pavilion demonstration; CHIP.	Prevention Needs Assessment Grant; CHIP.	CHIP	Disability Services; CHIP; child care licensing; teen pregnancy.	Child Protective Services; CHIP; Child Support Enforcement; FAIM rules.	CHIP; DPHHS response to public comment.	▸ Extensive Committee knowledge of DPHHS programs, staff, policies, and budgets. ▸ Provided a forum for members of the public with DPHHS questions/problems ▸ CHIP advisors.	

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